

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

3 -----
4 UNITED STATES OF AMERICA,

5 -versus-

08-CR-77

6 LINDA O'CONNOR and DEAN SACCO.
7 -----

8 TRANSCRIPT OF JURY TRIAL

9 held in and for the United States District Court,
10 Northern District of New York, at the Federal Building and
11 Courthouse, 15 Henry Street, Binghamton, New York, on
12 MONDAY and TUESDAY, May 5 and 6, 2008, before the HON.
13 THOMAS J. McAVOY, Senior United States District Court Judge,
14 PRESIDING.

15 FOR THE GOVERNMENT:

16 UNITED STATES ATTORNEY'S OFFICE

17 BY: MIROSLAV LOVRIC, AUSA

18 Binghamton, New York

19 FOR THE DEFENDANT O'CONNOR:

20 FEDERAL PUBLIC DEFENDER'S OFFICE

21 BY: LISA PEEBLES, AFD

22 Syracuse, New York

23 FOR THE DEFENDANT SACCO:

24 KELLY FISCHER, ESQ.

25 Binghamton, New York

USA vs Sacco and O'Connor

2

1 (In Chambers)

2 THE COURT: We have been having a discussion
3 off the record here. In fact, I guess maybe it's better if
4 you all state your appearances for the record.

5 MR. LOVRIC: Miroslav Lovric for the
6 government. Good morning, everybody.

7 MISS PEEBLES: Lisa Peebles appearing on
8 behalf of Linda O'Connor and also James Egan from the Office
9 of the Federal Public Defender for Linda O'Connor.

10 MR. FISCHER: Kelley Fischer for Dean Sacco.

11 THE COURT: We have been having an informal
12 off the record discussion about the nature and content of the
13 trial and how it would affect jurors and we all agree that
14 material that will be the subject matter of this trial is
15 difficult material and may be very difficult for some jurors,
16 because I don't think that sexual abuse of children is
17 something that is unfamiliar to most people in this place or
18 any other community.

19 Lisa Peebles from the public defender's office
20 has submitted a list of questions in writing that she
21 proposes to give to the jurors on the theory that it would be
22 less embarrassing for them and they may be more forthcoming
23 if they didn't answer any of these questions, even in open
24 court, even in front of the Judge alone or the Judge and
25 lawyers, let alone standing up in the jury box and giving up

1 this kind of information. If they answered this
2 questionnaire which will be appended to the record and I
3 think the government agrees, although the government has
4 expressed some reservations about doing it that way, it seems
5 to me this is the least offensive way of doing it and we're
6 more likely to get information that we can use in making a
7 decision of who goes and who stays and I'm talking about the
8 lawyer's decision, not the Court's decision. We want to
9 give them to the jurors to have them fill them out and have
10 them collected. Okay. It's going to hold the process up.

11 How about other issues that we have to --
12 peremptory issue was we're going to go with what the statute
13 says. The Court realizes there's two defendants and has
14 discretion to allow more peremptories to both the government
15 and defense but the Court doesn't really see the need for
16 that in this case. I think by using this questionnaire and
17 by using other discreet questions we can weed out those
18 jurors who may be prejudiced one way or another and the
19 ordinary cause challenge and peremptory statutory challenge
20 numbers are enough I think in this case.

21 Did you want to take an exception?

22 MISS PEEBLES: Yes, we would take an
23 exception. We'd ask the Court to grant us a couple extra
24 based on the nature of the case and the fact that there's two
25 defendants.

USA vs Sacco and O'Connor

4

1 THE COURT: Yes, sir, Mr. Lovric.

2 MR. LOVRIC: It's ten and six, then I got the
3 numbers, right?

4 THE COURT: Ten and six.

5 MR. FISCHER: I just want to echo Miss
6 Peebles' request. I'd like to echo Miss Peebles' request for
7 additional peremptories.

8 THE COURT: We're going to have four alternate
9 jurors. Does everybody think that's enough? Everybody's
10 nodding in agreement.

11 MR. FISCHER: Yes.

12 MISS PEEBLES: Yes.

13 THE COURT: Let me address an issue that we
14 did address a few moments ago off the record and that's the
15 issue of the sanctity of these medical records, hospital
16 records, inpatient records and social worker records that the
17 Court has already viewed to some extent, and the Court
18 recognizes that there's a privilege between the person who's
19 treated and the treating entities or the conferring entities
20 in the case of the social workers and that this privilege
21 ordinarily is not something that can be penetrated for
22 purposes of cross-examination, our cross-examination. Here
23 we have two defendants that are accused of very serious
24 criminal conduct and the Court believes that one of the main
25 components of the government's case and the Court believes

1 this based upon working with the case and working with
2 everybody involved in reviewing the records over a long
3 period of time, that if the -- if the victim, Shannon
4 O'Connor, takes the stand and testifies about the involvement
5 of either defendant, that the defendant's right to construct
6 a defense to defend themselves, to adequately present their
7 defense, should be able to penetrate the privilege and ask
8 questions about events that occurred with the young lady
9 while she was in treatment or consulting that would affect
10 her credibility as to matters she testifies to in Court.

11 Now, the Court has gone through almost all of
12 the records and has carefully held out and restricted matters
13 that the Court believes certainly are necessary for her care
14 and treatment but have no bearing, in the Court's view, on
15 the issues that are presented in this case. However, all
16 other matters where there were discussions about the people
17 involved in this case or events where she knew about certain
18 things and discussed them, those records are going to be
19 given to both sides and they're not to be used until we hear
20 the direct examination and the Court can discern whether or
21 not cross on those matters are appropriate.

22 MR. FISCHER: If I may, your Honor.

23 THE COURT: Certainly.

24 MR. FISCHER: I understand from reviewing of
25 the records that the government has provided that there may

1 have been statements by medical providers that Shannon
2 O'Connor suffered from a -- I don't know whether it was
3 serious or severe, I don't recall the word -- mental illness.
4 There were also intimations in the documents that I was
5 provided that she suffered at one time -- from while she was
6 recently in care at the Robinson Street facility, that she
7 suffered from some auditory hallucinations.

8 THE COURT: If there is anything of that
9 nature --

10 MISS PEEBLES: I have that.

11 THE COURT: It's very sparse. There are, and
12 I'm prepared to give to you, whatever diagnoses were made.

13 MR. FISCHER: Yes.

14 THE COURT: I think that's important for the
15 defense to have. I understand it's a direct breach of the
16 privilege. The Court's fully aware of that. Some appellate
17 court might be thinking I didn't understand the privilege. I
18 do. I just think in this case it has to give way. The
19 impression I got from reading the medical records, she
20 certainly was not normal, she was disturbed and it appears
21 that arose out of -- in the opinion of her care providers of
22 abuse that she received and that -- and that she needed to be
23 medicated and she was medicated and she needed to be observed
24 and that's the theme in the Robinson Street records is that
25 she was under strict observation to prevent suicide or

1 self-injurious behavior and there's things in the record that
2 indicated that those dangers were real and present. The
3 other matters basically were feelings that she had about her
4 mother and the relationship with her mother and maybe some
5 minors things about Mr. Sacco, but that's what's there.

6 I've reproduced everything I sent to you.
7 This stuff I haven't read over the weekend, we'll do that
8 today. There may still be some more. I don't think there's
9 going to be anything new in these records that you guys
10 haven't seen. So I'll give everybody an exception, even
11 though you haven't taken one. If I'm wrong and I shouldn't
12 do this and then I'll pay the penalty. The circuit will send
13 it back and some other Judge will try the case next time
14 because I'm a senior.

15 MISS PEEBLES: That's assuming there's a
16 guilty verdict.

17 THE COURT: Assuming. I don't assume that at
18 all. I don't know what the verdict is going to be.

19 Off the record.

20 (Discussion held off the record).

21 MISS PEEBLES: Judge, we made a pretrial
22 motion concerning some indication by the government in the
23 discovery letter that we received that they were going to
24 attempt to offer as 404(b) evidence that Mrs. O'Connor had
25 been sexually abused by her father and that she was

1 prostituted, past tense, and was convicted or charged with
2 prostitution and we made a motion to request the Court to
3 preclude the government from eliciting any type of
4 information concerning that and we've put in our papers the
5 basis for our request.

6 THE COURT: The Court has that. Yes, you did.
7 What's the government's position on the fact that she may
8 have been abused or prostituted by her father when she was a
9 young child?

10 MR. LOVRIC: Judge, maybe I can clarify the
11 issue. We are not going to seek to introduce in our direct
12 case any of those matters.

13 THE COURT: Oh.

14 MR. LOVRIC: But we do and we will utilize
15 those if defendant O'Connor testifies because they are very
16 relevant at that point in terms, if she testifies, about
17 conduct and actions. So to clarify we're not going to seek
18 to introduce it on the direct case.

19 THE COURT: Okay. I appreciate that. That
20 probably helps someone.

21 MISS PEBBLES: Yeah.

22 THE COURT: Let me ask you this: Assuming she
23 does take the stand for a moment, I don't know what she's
24 going to up do, it's up to her and her attorney at the final
25 decision making process, she takes the stand and denies any

1 allegations of wrongdoing. Now you begin to cross-examine
2 her. I've looked at the list of misdemeanors, some of them
3 may possibly be relevant on credibility and some of them
4 aren't because of the rules. We all know about 409 and case
5 law we can go into those individually when we have to. What
6 would be the government's idea of relevancy or not even yet
7 getting to 403 of the fact she was abused by her father or
8 prostituted by her father when she was young?

9 MR. LOVRIC: Well, it's relevant as to the
10 fact that she's charged in this case with prostituting her
11 child, pimping her out to other men which is exactly what she
12 underwent and what was done to her. I think it's relevant to
13 determine whether or not she has the ability to know what it
14 is that's being done, how it's being done. It goes towards
15 the fact that she went through this experience when she was a
16 teenage girl. She has some idea of how this is done, what
17 happens, and it's like -- like the same thing when you are
18 trying to prove that someone is producing child pornography
19 on a specific event. The fact that they have put together
20 things on different occasions or in past occasions.

21 THE COURT: That's different, isn't it?

22 MR. LOVRIC: No physical.

23 THE COURT: She's the victim, wasn't she?

24 MR. LOVRIC: No. Well, she's the victim but,
25 you know, at the age of 18 she's -- under some state law

1 she's an adult. If she's out prostituting herself and being
2 prostituted by her father, it's relevant as to whether or not
3 she can then turn around and do that to her child in terms of
4 knowledge, what it takes, what happens, what she's going to
5 do and what she isn't.

6 THE COURT: First of all, I don't accept that
7 premise. I disagree what you're saying. Number one, if I
8 did agree with it and it's remotely possible it is relevant,
9 I'd say under 403 the prejudicial effect of that far
10 outweighs any probative value. That's my preliminary ruling.
11 As the trial develops things may happen and I may have to
12 look at it differently but right now that's the way I'm
13 looking at it.

14 So what else we got?

15 MR. FISCHER: Well, no, no, your Honor. You
16 know, cross-examination of and really introduction of
17 evidence -- apparently Shannon has stated that George Lang
18 abused her before Dean Sacco was in the picture.

19 THE COURT: So there's evidence that Linda
20 O'Connor had had her daughter associate with George Lang in
21 an improper purpose?

22 MR. FISCHER: Yes, including photographs.

23 THE COURT: Yes.

24 MR. FISCHER: The government has indicated
25 they intend to offer -- withdrawn. I'm sorry. Confusing

1 issues. My position basically is that brings Rule 412 of
2 Federal Rules of Evidence into play. Part of what we're
3 talking about is the injury to the girl as a result of her
4 abuse, her symptoms, her medical treatment and as I read it,
5 412 (B)(1)(a) allows examination concerning her prior conduct
6 if it relates to an injury and, therefore, I do believe that
7 that prior conduct and beyond that basically my defense, I'll
8 put it right on the table, that she's transposing
9 psychologically events from George Lang to what occurred
10 here.

11 THE COURT: So you want that in the record.

12 MR. FISCHER: I do.

13 THE COURT: You're offering it, right?

14 MR. LOVRIC: I'll be honest with you, Judge, I
15 don't understand this issue at all. What's the objection?

16 THE COURT: He's not making an objection.

17 MR. LOVRIC: I'm asking what's on the table?

18 MR. FISCHER: Basically Rule 412, as I
19 understand the premise of the rule is you can't use prior
20 sexual conduct of the victim.

21 MR. LOVRIC: Okay.

22 MR. FISCHER: But I think that there are some
23 exceptions one of which applies here and I do believe the
24 prior sexual conduct of the victim, although all be it
25 involuntary, relates to what she's going through here.

USA vs Sacco and O'Connor

12

1 THE COURT: Well, I think the government --

2 MR. LOVRIC: I can simplify that. We're
3 introducing that because O'Connor's charged with --
4 O'Connor's charged with trafficking the minor to several men,
5 not just Sacco, to George Lang and to two other men who are
6 unidentified. That's going to come in.

7 THE COURT: You're going to try to get it in.

8 MR. LOVRIC: Right.

9 MISS PEEBLES: Because I don't see anywhere in
10 the indictment where George Lang is even brought up. I don't
11 think that's in there. It's all intertwined with Dean Sacco.

12 MR. LOVRIC: Count three.

13 THE COURT: That's where 412, 413 may come
14 into play as prior misconduct on the part of your client,
15 Lisa, with respect to the daughter. And I've looked through
16 those rules. I think these are what they're designed to do.

17 MISS PEEBLES: To be honest with you, it
18 doesn't cut against our theory of the case that it comes in
19 any way. I don't know that it's going to be an issue.

20 THE COURT: That leads to me to one last
21 question. Supposing this evidence starts coming in, you're
22 going to use it, Lisa's going to use it and the government's
23 going to use it, all draw different conclusions, do you or do
24 you not want me, Mr. Fischer, to instruct the jury that this
25 evidence against Linda O'Connor cannot be considered against

1 your defendant in terms of any of the charges against him
2 because it can't be?

3 MR. FISCHER: I would ask that you instruct
4 the jury it cannot be used against Mr. Sacco.

5 THE COURT: Even on the face of the theory
6 you're going to use this transposition.

7 MR. FISCHER: Because basically I'm saying
8 it's not evidence against him. It's confabulation. That's
9 consistent I think with my position here.

10 THE COURT: Okay. You'll get it.

11 MR. FISCHER: Thank you.

12 THE COURT: Let's go through this stuff.

13 (Discussion held off the record).

14 MISS PEEBLES: One thing, Judge. I didn't
15 know if this was an issue or not but I would ask the Court
16 that they not require Linda to have leg braces on or the
17 chains on.

18 THE COURT: I was asked that before. I didn't
19 think that was necessary. Do you want me to convey that to
20 the Marshals service?

21 MISS PEEBLES: Yes. The way they were going
22 to set them up, I didn't want my client to be sat next to Mr.
23 Sacco. We're crunched at that table for jury selection. If
24 I can have put her on the end between Dean Sacco, it would be
25 better.

USA vs Sacco and O'Connor

14

1 THE COURT: Let's see what Kelley says about
2 that.

3 MR. FISCHER: You always have the concern that
4 somebody's going to see the defendant in shackles but if it's
5 just the legs and Mr. Sacco's in the middle, that's not a
6 problem. He does wear a -- I think it's a jail wrist band
7 that we should get off him before he goes in.

8 THE COURT: All right.

9 MR. FISCHER: And --

10 THE COURT: We've arranged it with Colleen
11 that the defendants will be in the courtroom before the jury
12 comes in and seated, so they'll be no chance but I'll try to
13 address your concern with them.

14 MISS PEEBLES: Thank you.

15 THE COURT: Anything else.

16 MISS PEEBLES: I think that's it.

17 (Reviewing of Questionnaires).

18 THE COURT: We are here in chambers just about
19 to begin jury selection and Mr. Fischer has raised a question
20 about the arrangements for his client and how severe the
21 restriction should be on his liberty and we all know he's got
22 a past history. We may have to flesh all that out but the
23 marshal is here and I'd ask you to tell me what plans do you
24 have to secure that defendant in the courtroom.

25 THE MARSHAL: We're going to use leg irons,

1 they're going to be duct taped so they don't make any kind of
2 clicking noise. And also since the courtroom lacks any kind
3 of bolt in the ground that we can attach the leg irons to
4 limit his movements, if he decides to jump up and maybe go
5 after his co-defendant or whatever, I'm going to use the
6 table -- is an old table. It has a pretty thick beam going
7 across it on the beam. I'm going to use a chain to attach
8 his leg irons to the table physically. I was going to give
9 him enough movement, he's going to be comfortable and be able
10 to adjust himself. It will limit him from jumping up and
11 moving away from the table.

12 THE COURT: What will the jurors be able to
13 see?

14 THE MARSHAL: Nothing.

15 THE COURT: Is the chain wrapped around that
16 cross member?

17 THE MARSHAL: That's correct, your Honor.

18 THE COURT: How do you keep that from making
19 noise?

20 THE MARSHAL: Also duct tape.

21 THE COURT: Do you think his background merits
22 that additional security? I've tried all kinds of cases with
23 all kinds of people, including violent murderers, that ended
24 up serving life sentences and I don't recall anybody being
25 chained down. Leg irons always but that additional step

1 which may be necessary in this case is something above and
2 beyond what's been done before. Now I appreciate that we
3 have to be concerned, very concerned about security in this
4 courtroom for the defendant's benefit, as well as everybody
5 else but I think the paramount thing is that the jury doesn't
6 get the idea that this gentleman is any more dangerous than
7 anybody else in the courtroom.

8 THE MARSHAL: Marshal service has done -- we
9 have attached people's leg irons. There have been cases that
10 the Marshal service actually has installed bolts into the
11 concrete, into the courtroom and that was utilized to attach
12 the leg irons through. Here we don't have this, therefore,
13 it's that we're using the beam. It's the defendant's past
14 history, unstable pretty much, mental status, comments he has
15 made to myself and other deputies while in our custody in the
16 beginning of this case before we even went to trial. He has
17 made statements to me, said in regards, you just want to
18 punch me, don't you? Let's bring it on. That kind of
19 comments. I'm worried that if there's less restraint he
20 might get enough momentum going where he could either hurt
21 Linda O'Connor, her lawyer, or even his lawyer or even
22 Mr. Lovric.

23 We're also we're also going to have an
24 electronic devise, taser available. In order to minimize the
25 chances of us using that, I think a physical restraint would

1 keep him more grounded than using a taser if he does get --

2 THE COURT: We certainly want to avoid that if
3 it's possible.

4 THE MARSHAL: His demeanor, attitude towards
5 any kind of law enforcement authority that I observed.
6 Personally, if it's ourselves or even Broome County
7 Sheriff's, makes me believe that he would probably be a good
8 candidate for this.

9 THE COURT: Mr. Fischer.

10 MR. FISCHER: Your Honor, I'm not aware of any
11 incidents while Mr. Sacco's been incarcerated at the Broome
12 County Correctional Facility where he's been isolated for any
13 reason. He did a number of years in New Jersey state prison.
14 We have parole records, no indication there of any violent
15 conduct during his incarceration there. In my experience, in
16 meeting with him, he's frustrated and angry but there's no
17 indication to me that he poses any physical risk in this
18 setting of escape or attacking anybody at all.

19 THE COURT: When put in the equation of it's
20 less likely that he'd have to be tasered if he has that chain
21 wrapped around that cross member, do you still think that's a
22 thing that, if he doesn't object to that, he hasn't objected
23 to that, has he? He doesn't know about it, right?

24 MR. FISCHER: He has not been made aware of
25 this yet, no. And, again, if there's a risk -- jury's going

1 to know he's incarcerated, that's just one more straw on the
2 camel's back. It's not a risk that's justified under these
3 circumstances at all in my opinion.

4 THE COURT: Does he know how he's going to be
5 restrained in the courtroom?

6 THE MARSHAL: Not yet. I wasn't sure if this
7 was going to go through, therefore, he wasn't notified yet.
8 If, your Honor, this does pose a problem, we can avoid it but
9 just so you know, the taser will be utilized if Mr. Sacco
10 steps out of line with anybody.

11 THE COURT: I understand that. I'd like to
12 avoid that. I know it's a necessary device and I'm aware of
13 Mr. Sacco's background to a certain extent. The New Jersey
14 incident where he pulled the weapon in a crowded bus station
15 and all kinds of physical action. I observed him myself in
16 the courtroom, in my opinion, all of the defendants, except
17 for two that I've observed over 22 years doing this kind of
18 work, he seems to be -- have the least amount of stability,
19 except for those other couple that I mentioned and so I think
20 I'm going to allow him to be wrapped around the table, leg,
21 chain, cross member, because I think although it might upset
22 him to some degree, in the long run balance it all out. It's
23 not going to give the jury any information that he's anymore
24 dangerous than if he were not wrapped around because they're
25 not going to know about it. That's what we're going to do.

1 I'll give you an exception.

2 MR. FISCHER: Thank you.

3 THE COURT: What else do we got to do?

4 MR. LOVRIC: Just for the record, I was going
5 to add there's a considerable information about Mr. Sacco's
6 background i think to support that. I think from the
7 government's standpoint, I don't think there's any -- there's
8 really no detriment to Mr. Sacco in terms of the security
9 procedure. There's going to be nothing the jury's going to
10 know. Most importantly it's a minor inconvenience for the
11 defendant which I don't think is an inconvenience. I've read
12 Mr. Sacco's autobiography where he talks about a lot of
13 different activities and conduct and even about his own
14 personality disorders, his criminal history. I think he is
15 and I hope counsel can recognize, I think he is a very
16 disturbed individual in the sense of his personality. By way
17 of example, after -- after the controlled telephone calls
18 were made to him by the victim in this case and on the day
19 that the New Jersey State Police or New Jersey Police
20 Department went to find him, he actually tried to commit
21 suicide and kill himself. That's, I think, to the extreme
22 that he has gone in terms of his thinking. Now I don't know
23 where he is today in terms of that but it certainly indicates
24 that he has some very extreme thinking in terms of how to
25 deal with this issue.

1 THE COURT: Okay. I want the government and
2 the defendant each to secure and make available for
3 attachment to the record any information they have about this
4 gentleman's background and proclivity toward irrational acts
5 or rational acts, how ever you want to characterize it, so
6 the Second Circuit can see what decision was made by the
7 Court. The Court's aware of a lot of that stuff and hasn't
8 articulated it for the record because we're very pressed for
9 time. I've made my decision but I want the circuit to see
10 what the background is.

11 MISS PEEBLES: Judge, so we're clear on who
12 we're calling back, are we going to have a list of who we're
13 going to talk to individually, do you want to do that now?

14 THE COURT: I've got a list of people I'm
15 going to ask. That's one thing. I may miss something so
16 when you're questioning the jurors, is there something about
17 the answer you gave on your questionnaire that you'd like to
18 address prior with the Judge or do you want to answer my
19 questions here or you just want to say I'd like you to step
20 up to the bench, there's a couple things I'd like to ask you.

21 MISS PEEBLES: Can I do that?

22 THE COURT: Sure.

23 MISS PEEBLES: I'll do that.

24 THE COURT: Because I'll probably miss
25 something here.

1 (Discussion held off the record)

2 (Whereupon Jury Selection taken place)

3 (Court stands adjourned)

4 (Tuesday, May 6, Continuation of Jury Selection)

5 (Whereupon a Jury was duly selected and sworn)

6 THE COURT: I was gone so long you forgot your
7 seating arrangement. I apologize for the delay and my doctor
8 apologizes, the whole medical community apologizes, but when
9 you get over there you just can't hurry them. You've just
10 got to go through the procedure.

11 All right. I'm going to give you a charge
12 here. I'm going to tell you it's going to be your duty to
13 find from the evidence what the facts are. You and you alone
14 are the judges of the facts. You'll then have to apply to
15 those facts the law as the Court gives it to you and you must
16 follow the law whether or not you agree with it.

17 Nothing that I do or say during the course of
18 the trial is intended to indicate or should be taken by you
19 as indicating what your verdict should be. That's a matter
20 that's entirely up to you.

21 Now, the evidence from which you'll find the
22 facts will consist of the testimony of the witnesses and
23 documents and exhibits received in the record, and any facts
24 that the lawyers might agree to or stipulate or something the
25 Court may instruct you to find. Certain things are not

1 evidence and must not be considered by you as evidence and I
2 will list some of those for you now. The statements, the
3 arguments and the questions by the attorneys are not
4 evidence. Objections to questions are not evidence. The
5 attorneys have an obligation to their clients to make
6 objections when they feel some item of evidence being offered
7 is contrary to the rules. You should not be influenced by
8 the objection or by the Court's ruling on it. If an
9 objection is sustained, just ignore the question. If it's
10 overruled, treat the answer like any other. If you're
11 instructed that some item of evidence is received for a
12 limited purpose only, you must follow that instruction.

13 Testimony the Court has excluded or told you
14 to disregard is not evidence and must not be considered.
15 Anything you've seen or heard outside the courtroom about
16 this case is not evidence and must be disregarded. You're to
17 decide the case solely on the evidence presented here in the
18 courtroom.

19 Now there are two kinds of evidence that can
20 properly be considered by you, direct evidence and
21 circumstantial evidence. Direct evidence is proof of a fact
22 such as testimony by an eyewitness. Circumstantial evidence
23 is proof of facts from which you may infer or conclude that
24 other facts exist. I'll give you further instructions on
25 these as well as other matters at the end of the trial but

1 just keep in mind that you may consider both direct and
2 circumstantial evidence.

3 Now, it's going to be up to you to decide
4 which witnesss to believe, which witnesses not to believe and
5 how much of any witness' testimony to accept or reject.
6 Again, at the end of the case I'll give you some instructions
7 that hopefully will be helpful to you in determining the
8 credibility or believability of witnesses that you will have
9 seen.

10 As you know, this is a criminal case and there
11 are three basic rules about a criminal case that you must
12 keep in mind. First, that the defendants are presumed
13 innocent until proven guilty. The indictment against the
14 defendants brought by the government is only an accusation,
15 nothing more. It is not proof of guilt or anything else.
16 The defendants, therefore, start out the trial with a clean
17 slate. Second, the burden of proof is on the government
18 until the very end of the case. The defendants have no
19 burden to prove their innocence or to present any evidence or
20 to testify. Since the defendants have the right to remain
21 silent the law prohibits you in arriving at your verdict from
22 considering the defendants may not have testified. Third,
23 the government must prove each defendant's guilt beyond a
24 reasonable doubt. I'll give you further instructions on this
25 point later, but bear in mind that this is very different in

1 that respect from a civil case or grand jury.

2 Now, I instruct you during the trial you're
3 not to discuss the case with anyone or permit anyone to
4 discuss it with you. Until you retire to the jury room at
5 the end of the case, you're simply not to talk about it.
6 Next, if there's anything in the media, just ignore it once
7 you've identified it. Don't try to do any research on your
8 own. No computers, no Googles, no whatever search engines
9 there are out there. DogPile, don't go to DogPile, for
10 example. Also, don't form any opinion or conclusion until
11 the end of the case. Keep an open mind until you've heard
12 all the evidence before you and make any conclusions or firm
13 opinions.

14 Now, if you want to take notes you can. I see
15 you've been given the where with all to do that. Some people
16 learn better hearing things, other people learn better by
17 writing them down and maybe looking at them later and you're
18 certainly permitted to write down anything you wish. Just
19 remember, though, that's personal to you. You can't be
20 showing that to the other jurors. You can look at it to
21 refresh your recollection and say, oh, this witness said thus
22 and so but you just can't pass your writing around. Maybe
23 you made a mistake in it, who knows, that's the reason we
24 don't do that.

25 Now, there's going to be in minute or two --

1 even actually a minute or two a while you're going to hear
2 the opening statements from the attorneys and each side will
3 present to you what they believe the proof in the case is
4 going to be. And, of course, they're going to present it in
5 such a fashion as it helps their own side. That's my belief.
6 They may tell you something different. What they say in that
7 opening statement is not facts. I just told you what the
8 lawyers say are not facts but it may be helpful to you. I
9 like to think of it as a big puzzle box with the picture on
10 the front. If you dump that out on a table and you turn the
11 picture face down, it's a lot harder to put the pieces
12 together. If you turn the face up and look at it, you can
13 kind of feel where the pieces may go. That's what an opening
14 statement seems like to me. Painting a picture for you and
15 the pieces that will be presented to you. Some people like
16 to think of it as a road map and there's all kinds of other
17 analogies you can imagine for the opening statement.

18 Now, I'm going to give you a preliminary
19 charge on the law that you're going to be dealing with at the
20 end of this case. This will not be a complete charge. I'll
21 give you a complete charge at the end of the case. Your
22 deliberations and verdict must be based on the charge that I
23 give you at the end of this case and not on this preliminary
24 charge. This is simply an over view so you will recognize
25 and appreciate the significance of the evidence or the lack

1 of evidence presented in this case.

2 The defendants in this case are Dean Sacco and
3 Linda O'Connor. Although these two defendants are being
4 tried together, you remember its your duty to consider each
5 charge separately as to each defendant. In count one
6 defendant O'Connor is charged with selling a child for
7 purpose of producing child pornography. In count two
8 defendant Sacco is charged with buying of a child for the
9 purpose of producing child pornography. Count three charges
10 both defendants. Count four charges both defendants with the
11 production of child pornography. Count five charges
12 defendant O'Connor with the production of child pornography.
13 Count six charges defendant Sacco traveled in interstate
14 commerce with the intent to engage in illicit sexual conduct
15 with a minor. Count seven charges both defendants with the
16 possession of child pornography. So there are seven counts
17 total. Six counts Miss O'Connor is a defendant and Mr. Sacco
18 is charged in the rest of the counts.

19 Now, count one charges defendant O'Connor with
20 violating Title 18 United States Code -- don't worry about
21 these numbers -- Title 18 United States Code Section
22 2251(A)(a), which provides in part it's a crime for any
23 parent, legal guardian, or other person having custody or
24 control of a minor who sells or otherwise transfers custody
25 or control of such minor, or offers to sell or otherwise

1 transfer custody of such minor either with knowledge that as
2 a consequence of the sale or transfer, the minor will be
3 portrayed in a visual depiction engaging in or assisting
4 another person to engage in sexually explicit conduct or with
5 intent to promote either the engaging in of sexually explicit
6 conduct by such minor for the purpose of producing any visual
7 depiction of such conduct or the rendering of assistance by
8 the minor to any other person to engage in sexually explicit
9 conduct for the purpose of producing any visual depiction of
10 such conduct.

11 To convict defendant O'Connor on this count
12 the government must prove each of the following elements
13 beyond a reasonable doubt: First, that defendant O'Connor
14 was a parent, legal guardian or a person having custody or
15 control over Shannon. Second, that the defendant O'Connor
16 sold or otherwise transferred custody or control over to
17 defendant Dean Sacco. Third, that the defendant O'Connor
18 either knew that as a consequence of the sale or transfer
19 Shannon O'Connor would be portrayed in a visual depiction
20 engaging in or assisting Dean Sacco to engage in sexually
21 explicit conduct or intended to promote either the engaging
22 in of sexually explicit conduct by Shannon O'Connor for the
23 purpose of producing any visual depiction of such conduct or
24 the rendering of assistance by Shannon O'Connor to Dean Sacco
25 to engage in sexually explicit conduct for the purpose of

1 producing any visual depiction of such conduct. Fourth, at
2 the time Shannon O'Connor was under 18 years of age and
3 fifth, that Dean Sacco crossed state lines in connection with
4 the charged conduct.

5 Now, the third element that I read to you uses
6 the phrase visual depiction of sexually explicit conduct. A
7 visual depiction includes any photograph, film, video or
8 picture, including undeveloped film and videotape and data
9 stored on computer disk or by electronic means which is
10 capable of conversion into a visual image. In deciding
11 whether the government has proven this element, you may
12 consider all of the evidence concerning the defendant's
13 conduct. While the government must prove the defendant acted
14 with knowledge that the minor would be portrayed in a visual
15 depiction of the child engaging in sexually explicit conduct,
16 or with the intent to promote the engaging in of sexually
17 explicit conduct by the minor for purposes of producing any
18 visual depiction of such conduct, or the rendering of
19 assistance by the minor to Dean Sacco to engage in sexually
20 explicit conduct for the purpose of producing a visual
21 depiction of such conduct, it is not required that the
22 government prove visual depiction of that conduct was
23 actually produced. The term produce means producing,
24 directing, manufacturing, issuing, publishing or advertising.
25 The phrase sexually explicit conduct as used in this element

1 means actual or simulated sexual intercourse, including
2 genital to genital, oral to genital, anal to genital, or
3 oral-anal, whether between persons of the same or opposite
4 sex, masturbation, sadistic or masochistic abuse or
5 lascivious exhibition of the genitals or pubic area of any
6 person. The term lascivious exhibition means a depiction
7 which displays or brings to view to attract notice to the
8 genitals or pubic area of children in order to excite
9 lustfulness or sexual stimulation in the viewer. Not every
10 exposure of genitals or pubic area constitutes lascivious
11 exhibition. In deciding whether the government has proven
12 that a particular visual depiction constitutes a lascivious
13 exhibition you should consider the following question:
14 Whether the focal point of visual depiction is on the child's
15 genitals or pubic area or whether there is some other focal
16 area; whether the setting of the visual depiction makes it
17 appear to be sexually suggestive, for example, in a place or
18 pose generally associated with sexual activity; whether the
19 child is displayed in an unnatural pose or in inappropriate
20 attire, considering the age of the child; whether the child
21 is fully or partially clothed or nude, although nudity is not
22 in and of itself lascivious; whether the visual depiction
23 suggests sexual coyness or willingness to engage in sexual
24 activity and whether the visual depiction is intended or
25 designed to elicit a sexual response in the viewer. It is

1 not required that the particular visual depiction involve all
2 of these factors to be a lascivious exhibition. The
3 importance which you give to any one factor is up to you to
4 decide.

5 The fourth element which the government must
6 prove beyond a reasonable doubt is that Shannon O'Connor was
7 less than 18 years old at the time of the acts alleged in the
8 indictment. The government does not have to prove that the
9 defendant knew Shannon O'Connor was less than 18 years old.

10 Now, count two charges defendant Sacco with
11 buying a child for the purpose of producing child pornography
12 in violation of Section 2251A(b) of Title 18, United States
13 Code. Section 2251A(b) provides in relevant part that
14 whoever purchases or otherwise obtains custody or control of
15 a minor or offers to purchase or otherwise obtain custody or
16 control over a minor, either with knowledge that as a
17 consequence of the purchase or obtaining of custody, the
18 minor will be portrayed in a visual depiction engaging in, or
19 assisting another person to engage in, sexually explicit
20 conduct; or with intent to promote either the engaging in of
21 sexually explicit conduct by such minor for the purpose of
22 producing any visual depiction of such conduct; or the
23 rendering of assistance by the minor to any other person to
24 engage in sexually explicit conduct for the purpose of
25 producing any visual depiction of such conduct shall be

1 guilty of a crime.

2 To convict defendant Sacco on this count the
3 government must prove each of the following elements beyond a
4 reasonable doubt: First, that defendant Sacco purchased or
5 obtained custody or control over the minor or offered to
6 purchase or otherwise obtain custody or control of a minor.
7 Second, that the defendant Sacco either knew or as a
8 consequence of purchase or obtaining of custody, the minor
9 would be portrayed in a visual depiction engaging in or
10 assisting Sacco to engage in sexually explicit conduct or
11 intended to promote either the engaging in of sexually
12 explicit conduct by the minor person having custody or
13 control of for the purpose of producing any visual depiction
14 of such conduct, or the rendering of assistance by the minor
15 to defendant Sacco to engage in sexually explicit conduct for
16 the purpose of producing any visual depiction of such
17 conduct. Third, that at the time the minor was under 18
18 years of age; and fourth, that defendant Sacco crossed state
19 lines in connection with the charged conduct.

20 In addressing this count you should use the
21 definitions I previously provided you in connection with
22 count one.

23 Count three, both defendant Sacco and O'Connor
24 are charged in count three of the indictment. Count three
25 charges a violation of Section 1591 (a) and (b) of Title 18

1 of the United States Code which provides in relevant part
2 that: Whoever knowingly in or affecting interstate or
3 foreign commerce, or within the special maritime and
4 territorial jurisdiction of the United States recruits,
5 entices, harbors, transports, provides or obtains by any
6 means a person or benefits financially or by receiving
7 anything of value from participation in a venture which has
8 engaged in an act described in violation of paragraph one
9 knowing that force, fraud or coercion will be used to cause
10 the person to engage in a commercial sex act or that the
11 person is not attained the age of 18 years and will be caused
12 to engage in a commercial sex act shall be guilty of a crime.

13 To convict the defendants on this count the
14 government -- excuse me. To convict the defendants on this
15 crime the government has to prove the following elements
16 beyond a reasonable doubt: First, that the defendant
17 recruited, enticed harbored, transported, provided, or
18 obtained the minor by any means. Second, that Shannon
19 O'Connor had not obtained the age of 18 years. Third, that
20 the defendant knew that Shannon O'Connor would be caused to
21 engage in a commercial sex act; and fourth, that the
22 defendant's conduct affected interstate or foreign commerce.

23 With respect to the third element referring to
24 a commercial sex act, a commercial sex act means any sex act
25 on account of which anything of value is given to or received

1 by any person. When considering this count three remember
2 that each defendant is charged in this count and you must
3 evaluate this charge as to each defendant individually. In
4 count three, both defendants are also charged with violating
5 18 United States Code, Section 2, aiding and abetting.
6 Section 2 of Title 18 United States Code provides that
7 whoever commits an offense against the United States, or aids
8 or abets or counsels, commands, induces to procure its
9 commission is punishable as a principal. Under the aiding
10 and abetting statute it's not necessary for the government to
11 show that a particular individual himself or herself
12 physically committed the crime with which he or she is
13 charged in order for you to find that individual guilty. The
14 guilt of an individual may be established without proof that
15 the accused personally did every act constituting the offense
16 charged. A person who aids or abets another to commit an
17 offense is just as guilty of that offense as if he or she
18 committed it himself. Accordingly, you may find an
19 individual guilty of an offense charged if you find beyond a
20 reasonable doubt that the government has proven that another
21 person actually committed the offense with which the
22 individual is charged and that the individual aided or
23 abetted that person in the commission of the offense.

24 As you can see, the first requirement is that
25 you find that another person committed the crime charged.

1 Obviously no one can be convicted of aiding and abetting the
2 criminal acts of another if no crime was committed by the
3 other person in the first place. But if you do find that a
4 crime was committed, then you must consider whether the
5 particular individual under consideration aided or abetted
6 the commission of that crime. In order to aid or abet
7 another to commit a crime it is necessary that the individual
8 willingly and knowingly associated himself or herself in some
9 way with the crime or that he or she willfully and
10 unknowingly seeks by some act to help make the crime succeed.
11 Participation in a crime is willful if action is taken
12 voluntary and intentionally or in the case of a failure to
13 act with a specific intent to fail to do something the law
14 requires to be done; that is to say with a bad purpose either
15 to disobey or disregard the law.

16 In other words, if an individual is fully
17 aware that what he or she is doing plays a significant role
18 and intentionally participates in facilitating a transaction
19 prohibited by law, he or she is equally guilty as a person
20 who directly performs the illegal acts even though the other
21 played a greater or much larger role in the perpetration of
22 the crime. Whether one aided or abetted or caused another to
23 commit a crime must be determined based on the alleged aider
24 and abettor's overt conduct, acts and statements. You are
25 entitled to consider circumstantial evidence as proof that

1 one or more of these individual defendants aided and abetted
2 the crime. It is not necessary that the acts alleged to have
3 constituted aiding and abetting be criminal in and of
4 themselves. Under the law, acts which might otherwise be
5 legal can constitute the basis for the finding of aiding and
6 abetting. The mere presence of an individual where a crime
7 is being committed even coupled with knowledge by the
8 individual that a crime is being committed or the mere
9 acquiescence by the individual in the criminal conduct of
10 others, even with guilty knowledge, is not sufficient to
11 establish aiding and abetting. An aider and abettor must
12 have some interest in the criminal venture. To determine
13 whether an individual aided and abetted the commission of a
14 crime which he or she is charged, ask yourself these
15 questions: Did he or she participate in the crime charged as
16 something he or she wished to bring about? Did he or she
17 associate him or herself with a criminal venture knowingly
18 and willfully? Did he or she seek by his or her actions make
19 the criminal venture succeed? If he or she did then the
20 individual is an aider and abettor and, therefore, guilty of
21 the offense. If on the other hand your answer to the series
22 of questions are no, then the individual is not an aider and
23 abettor and cannot be found to have committed the charged
24 crime.

25 Court four. Count four of the indictment

1 charges both defendants with violating Title 18 United States
2 Code Section 2251A which provides in pertinent part that any
3 person who employs, uses, persuades, induces, entices or
4 coerces any minor to engage in any sexually explicit conduct
5 for the purpose of producing any visual depiction of such
6 conduct shall be guilty of a crime if such person knows or
7 has reason to know that such visual depiction will be
8 transported in interstate or foreign commerce or mailed if
9 that visual depiction was produced using materials that have
10 been mailed, shipped, or transported in interstate or foreign
11 commerce by any means, including by computer, or if such
12 visual depiction has been actually transported in interstate
13 or foreign commerce or mailed.

14 To prove a defendant guilty of using a minor
15 to produce child pornography the government must prove each
16 of the following elements beyond a reasonable doubt: First,
17 that Shannon was under the age of 18. Second, the defendant
18 used, employed, persuaded, induced, enticed or coerced
19 Shannon to take part in sexually explicit conduct for the
20 purpose of producing a visual depiction of that conduct. And
21 third, the visual depiction was produced using materials that
22 had been mailed, shipped or transported in interstate or
23 foreign commerce. The second element the government must
24 prove beyond a reasonable doubt is that the defendants used,
25 employed, persuaded, induced, enticed, coerced Shannon

1 O'Connor to take part in explicit conduct for purpose of
2 producing visual depiction of that conduct. A visual
3 depiction, as I've said before, includes any photograph,
4 film, video or picture, including undeveloped film, and
5 videotape and data stored on computer disk or by electronic
6 means which is capable of conversion into a visual image.

7 In deciding whether the government has proven
8 that the defendant acted for the purpose of producing a
9 visual depiction of the sexually explicit conduct, you may
10 consider all the evidence concerning the defendants' conduct.
11 While the government must prove that defendant acted with the
12 purpose of producing a visual depiction of the child engaging
13 in sexually explicit conduct, it is not required that the
14 government prove that the visual depiction of that conduct
15 was actually produced. The phrase sexually explicit conduct
16 is defined as I previously explained it to you.

17 The third element which the government must
18 prove beyond a reasonable doubt is that the visual depiction
19 was produced using materials that have been mailed or
20 transported in interstate or foreign commerce. Simply
21 stated, the phrase transported in interstate or foreign
22 commerce means that the materials used to produce the visual
23 depiction had previously moved from one state to another or
24 between the United States and another country. Here the
25 government alleges that the camera used to take the

1 photographs in question was manufactured in another state. I
2 instruct you that if you find that the camera was
3 manufactured outside of New York State, that is sufficient to
4 satisfy this element. The government does not have to prove
5 that the defendant personally transported the camera across
6 the state line or the defendant knew the camera previously
7 crossed the state line.

8 Count five of the indictment charges defendant
9 O'Connor with violating 18 United States Code Section 2251B
10 which provides in pertinent part, any parent, legal guardian
11 or person having custody or control of a minor who knowingly
12 permits such minor to engage in or assist another person to
13 engage in sexually explicit conduct for the purpose of
14 producing any visual depiction of such conduct shall be
15 guilty of a crime if such parent, legal guardian or person
16 knows or has reason to know that such visual depiction will
17 be transported in interstate or foreign commerce or mailed.
18 That visual depiction was produced using materials that have
19 been mailed, shipped in interstate or foreign commerce by any
20 means, including by computer, or if such visual depiction has
21 actually been transported in interstate or foreign commerce
22 or mailed.

23 To prove a defendant guilty of this charge the
24 government must prove each of the following elements beyond a
25 reasonable doubt: First, that Shannon O'Connor was under the

1 age of 18. Second, that the defendant was a parent or legal
2 guardian or person having custody or control over Shannon
3 O'Connor. Third, that the defendant knowingly permitted the
4 minor to engage in, or assist any other person in, sexually
5 explicit conduct for the purpose of producing a visual
6 depiction of that conduct; and fourth, the visual depiction
7 was produced using materials that had been mailed or
8 transported in interstate or foreign commerce. Again in
9 analyzing this charge you should use the definitions I
10 previously gave you.

11 Count six charges defendant Sacco with
12 violating Section 2423(b) of Title 18 of the United States
13 Code which provides in relevant part that: A person who
14 travels in interstate commerce or travels into the United
15 States or a United States citizen or alien admitted for
16 permanent residency in United States who travels in foreign
17 commerce for purposes of engaging in any illicit sexual act
18 with another person shall be found guilty of a crime. To
19 convict defendant Sacco of this count the government must
20 prove the following elements beyond a reasonable doubt:
21 First, that the defendant traveled in interstate commerce.
22 Second, one of the purposes of defendant's travels across
23 state lines was to engage in illicit sexual conduct with
24 another person; and third, that Shannon O'Connor was under 18
25 years of age at the time of the charged conduct. For

1 purposes of this count the term illicit sexual conduct means
2 a sexual act with a person under the age of 18 or any
3 commercial sex act. The phrase sexual act means contact
4 between penis and vulva or penis and the anus. The phrase
5 sexual act means contact between the mouth and the penis, the
6 mouth and the vulva, or the mouth and the anus involving
7 penetration, however slight. The phrase sexual also means
8 contact between the mouth and the penis, the mouth and vulva,
9 the mouth and the anus, the penetration; however slight, of
10 the anal or genital opening of another by a hand or finger or
11 by any object with the intent to abuse, humiliate, harass,
12 degrade or arouse or gratify the sexual desire of any person
13 or the intentional touching, not through the clothing, of the
14 genitalia of another person who has not attained the age of
15 16 years with intent to abuse, humiliate, harass, degrade or
16 arouse or gratify the sexual desire of any person. The
17 phrase commercial sex act means any sex act on account of
18 which anything of value is given to or received by any
19 person.

20 Count seven. Count seven charges both
21 defendants with violating Section 2252A(a)(5)(B) of Title 18,
22 United States Code, which provides in relevant part that:
23 Any person who knowingly possesses any book, magazine,
24 periodical, film, videotape, computer disk or any other
25 material that contains an image of child pornography that has

1 been mailed or shipped or transported in interstate or
2 foreign commerce by any means, including by computer, or that
3 was produced using materials that had been mailed or shipped
4 or transported in interstate or foreign commerce by any
5 means, including computer, shall be guilty of a crime. To
6 convict the defendants on this count the government must
7 prove each of the following elements beyond a reasonable
8 doubt: First, that the defendant knowingly possessed a
9 visual depiction as I'll explain that term to you. Second,
10 the visual depiction was produced using materials that had
11 been transported in interstate or foreign commerce. Third,
12 that the visual depiction was child pornography as I will
13 define that term; and fourth, that the defendant knew of the
14 sexually explicit nature of the material and that the visual
15 depictions were of an actual minor engaged in that sexually
16 explicit conduct.

17 The first element which the government must
18 prove beyond a reasonable doubt is that defendant knowingly
19 possessed a visual depiction. A visual depiction includes
20 any photograph, film, video or picture, including undeveloped
21 film and videotapes and data storage on computer disk or by
22 electronic means which is capable of conversion into a visual
23 image. To possess something means to have it within a
24 person's control. This does not necessarily mean that the
25 person must hold it physically; that is, have actual

1 possession of it. As long as the visual depiction is within
2 the defendant's control he or she has possession of it. If
3 you find that the defendant either had actual possession of
4 the depiction or that he or she had the power and intention
5 to exercise control over it, even though it was not in his or
6 her physical possession, you may find that the government has
7 proven possession.

8 The law also recognizes that if one person
9 alone possesses it, that is sole possession; however, it is
10 possible that more than one person may have power and
11 intention to exercise control over a visual depiction, this
12 is called joint possession. If you find the defendant had --
13 such a defendant had such power and intention then he or she
14 possessed the depiction even though he or she possessed it
15 jointly with another person. The government must prove the
16 defendant knowingly when it's done voluntary and
17 intentionally and not because of accident, mistake or some
18 other innocent reason.

19 The second element which the government must
20 prove beyond a reasonable doubt is that the child pornography
21 was produced using materials that had been transported in
22 interstate or foreign commerce. I have previously explained
23 this phrase to you and you may apply that same definition
24 here. Essentially, it must be shown that the materials used
25 to produce the child pornography had previously moved from

1 one state to another or between the United States and any
2 other country.

3 The third element which the government must
4 prove beyond a reasonable doubt is that the visual depiction
5 was child pornography. Child pornography means any visual
6 depiction the production of which involved the use of a minor
7 engaging in sexually explicit conduct which portrays that
8 minor in engaging in that conduct. The visual depiction must
9 be of a real person under the age of 18 engaging in sexual
10 explicit conduct. The government does not have to prove the
11 identity of the minor or the exact age of the minor. You may
12 consider all of the evidence, including your viewing of the
13 depiction, in determining whether the depiction portrayed an
14 actual person under the age of 18 engaging in sexually
15 explicit conduct. I have previously defined the term
16 sexually explicit conduct for you and you should apply that
17 same definition to this count.

18 The fourth element which the government must
19 prove beyond a reasonable doubt is that the defendant knew
20 that the material he or she possessed was child pornography.
21 As I stated before, an act is done knowingly when it's done
22 voluntarily and intentionally and not because of accident,
23 mistake or some other innocent reason. In this case the
24 government must show that the defendant had knowledge of the
25 general nature of the content of the material. The defendant

1 need not have specific knowledge as to identity or actual age
2 of the underage performer. The defendant must have knowledge
3 or an awareness that the material contained a visual
4 depiction of a minor engaging in explicit conduct. Such
5 knowledge may be shown by direct or circumstantial evidence
6 or both. Eyewitness testimony of the defendant's viewing of
7 the material is not necessary to prove his or her awareness
8 of its contents. The circumstances may warrant an inference
9 that he or she was aware of what the material depicts.
10 Further, the defendants belief as to the legality or
11 illegality of material is irrelevant.

12 Now, this has been a brief -- probably you
13 don't think this has been a brief -- overview of the charges
14 in the indictment. It is important to bear in mind that
15 there are several different charges with two separate
16 defendants. You must consider each charge as to each
17 defendant separately, that is to say you'll be required to
18 evaluate each element of the offense as applies to each count
19 and as to each defendant. As I told you at the end of the
20 trial, I'll give you a more thorough charge on the legal
21 issues that are encompassed in this indictment.

22 All right. Are you guys ready for opening
23 statement or do you want a break? Hearing no cries for
24 breaks, Mr. Lovric.

25 MR. LOVRIC: Thank you, Judge. Good afternoon

Government - Opening Statement

45

1 everyone. I'll try to speak into the mike a little bit. I
2 think it's a little bit easier for everyone to hear. I'm
3 going to talk with you and what the Judge mentioned to you is
4 called the opening statement and I want to take a little bit
5 of time to talk to you at this point and here's the reason:
6 What I'd like to do over the course of, I don't know if it
7 will be an hour or little bit more than an hour, is to go
8 through the things that I submit you will be seeing and
9 hearing in evidence during this trial. This trial is going
10 to take, depending on a lot of different things and hopefully
11 one of them is not going to be snow, but depending on a lot
12 of different things on schedules, anywhere from six to seven
13 days to maybe a little bit longer, maybe eight or nine, ten
14 days.

15 During the course of the trial I anticipate
16 calling a number of witnesses. You're going to hear actually
17 many witnesses testifying here and I think what I'm going to
18 do right now I think will help you, and I hope it helps you.
19 That's what it's designed to do from my perspective. What
20 I'd like to do is walk you through what I submit you will be
21 seeing and hearing through the evidence.

22 Now, as you can imagine, the evidence in this
23 case comes in one witness at a time, one exhibit at a time.
24 It's not as though we can just bring everybody into the
25 courtroom and have everybody just start talking to you and

Government - Opening Statement

46

1 jumping in and saying but here's where this fits in, here's
2 where this fits in, here's where you may want to think about
3 this piece. So, because it's going to come in one witness at
4 a time, one piece of paper at a time, one exhibit at a time,
5 I like to think that the opening statement will be helpful to
6 you, kind of like what the Judge said. You know, it's kind
7 of like when you get one of those puzzles and maybe work on
8 with your family. When you take all the pieces out you'll do
9 what I do, which is leave the room and let the rest of the
10 family work on the puzzle. You look at it, wow, this is
11 going to take a while to put together and then somebody says,
12 hey, look at the back of the box, there's the picture.
13 They're like, well, it's not that bad. The sky's here, the
14 barn's over here, cow's here. You have an easier time when
15 you look at the end product. I'm here to deliver to you what
16 I submit will be the end product.

17 So, after it's all said and done, six, seven,
18 eight days from now, what I want to do now is tell you this
19 is what I believe you will find. This is what I believe the
20 evidence will show you so that when you hear, like, for
21 example, the first witness I'm going to call is Sergeant Pat
22 Blenis and Pat Blenis will tell you he works for the Norwich
23 Police Department and he was one of the first and the first
24 investigator to work on this case. And he will tell you
25 about the things that he did and what he discovered and what

Government - Opening Statement

47

1 he found and so on. Well, after Pat Blenis they'll be
2 another witness, Investigator Terry Shultz from the New York
3 State Police, and so on and so on and at some point FBI Jim
4 Lyons will testify and he will tell you when he became
5 involved and what happened after he became involved. So,
6 this will all kind of develop and unfold but the key is, I
7 want to take the opportunity in the forefront now to tell you
8 what I believe and what I submit you will be seeing so that
9 when these pieces come in you can kind of put them on your
10 pads if you want or in your mind so you kind of know where it
11 fits. So that's kind of a long way of saying -- I do
12 apologize that I'm going to spend a little bit of time in
13 front of you and, you know, a lot of people will probably
14 like me to sit down after five minutes but I do think it's
15 important and I do think that it will help you and I hope it
16 does.

17 I want to start off by saying to you the
18 evidence you're going to hear and the information that is
19 going to be provided to you and things that you will hear
20 about, the testimony, the exhibits, the overall nature of
21 what you're going to hear is going to be horrific. There is
22 no other way to put it. It will be horrific. You will hear
23 from Shannon O'Connor. She will testify and she will testify
24 about excruciating, horrific things that were done to her.
25 She will tell you about how she was repeatedly raped by Dean

Government - Opening Statement

48

1 Sacco. She will tell you about the sexual abuse administered
2 to her for years by Linda O'Connor. She will tell you about
3 the torture that she lived with for three plus years and she
4 will go into details about how it happened, where it
5 happened, who did what to her, what Linda O'Connor did to
6 her, what Dean Sacco did to her, what a man named George Lang
7 did to her, what two men at the Best Western motel did to
8 her. And there's no other way to put it, it's going to be
9 horrific. Shannon O'Connor will testify and she will tell
10 you at this point in time in her life she's 14 years old.
11 She will talk to you and tell you about things that Linda
12 O'Connor started to do to her when she was a little over ten
13 years old. She will tell you about things that Linda
14 O'Connor began to do to her from about 2004 and going through
15 up to about March of 2007. And through this testimony she
16 will describe for you how Linda O'Connor, and there is no
17 other word that I can use but to describe for you what she
18 will tell you, but she pimped her out. Linda O'Connor pimped
19 out her own daughter to other men to have sex with her, to
20 sexually abuse her. You will learn and hear that Linda
21 O'Connor herself began by sexually abusing Shannon O'Connor.
22 You will hear how it first started in the shower. You will
23 hear how it first started with touching. You will hear how
24 then Linda O'Connor moved this activity into her bedroom.
25 You will hear how she caused Shannon to engage in oral sex

1 with Linda O'Connor. You will hear how then it became
2 somewhat routine for Linda O'Connor to sexually assault and
3 sexually abuse Shannon. You will hear from Shannon O'Connor
4 when she describes for you how this sexual abuse by George
5 Lang started. You will hear Shannon O'Connor describe for
6 you in great detail the three-way sex that occurred between
7 Linda, George and Shannon and she will describe for you what
8 Linda did to her, what George did to her, and what they
9 caused her to do to each of them during these sexual trysts
10 the three of them had.

11 You will then learn also from the evidence
12 that in August of 2006, Linda O'Connor moved herself and
13 Shannon to Norwich. You will hear about, as many of you may
14 recall, the flood of one of several that we had in this year,
15 but in June of 2006 there was dramatic flooding that happened
16 in the Deposit area and even in our communities here. Linda
17 O'Connor and Shannon were one of the people flooded out.
18 They lived on River Street in Deposit and thereafter some
19 time they moved to Norwich and you will hear how Shannon will
20 describe for you how happy she was they were moving to
21 Norwich. And you will learn that when they moved to Norwich,
22 they moved into Mr. Dean Sacco's residence that he had
23 purchased. Mr. Dean Sacco, landlord from New Jersey, lived
24 and worked in New Jersey. And I submit to you you will find
25 and you will conclude that when Linda O'Connor and Shannon

Government - Opening Statement

50

1 met Dean Sacco, the evidence will show you Dean Sacco was a
2 full blown pedophile. You will find from all the evidence
3 that you hear that he was nothing short -- and we will prove
4 it, he was nothing short of a sexual feen, a sexual predator,
5 and you will find from the evidence and we will prove to you
6 that he prayed on Shannon and he raped her repeatedly.

7 You will also learn and we will prove to you
8 that Dean Sacco traveled from New Jersey. He traveled on the
9 weekends fixing up his 45 Fair Street home. He traveled to
10 be in the presence of Shannon and Linda and it was during
11 these travels when he came up from New Jersey to Norwich that
12 he raped Shannon. And then you will also hear Shannon
13 describe for you on two separate occasions Linda O'Connor
14 took her to the Best Western hotel right here in Johnson
15 City, near the Oakdale Mall, and on two separate occasions
16 Linda O'Connor pimped out Shannon to two separate men on two
17 separate occasions. And these men came to that hotel for one
18 purpose, to sexually rape Shannon. She will tell you about
19 how when she was raped, Linda O'Connor sat there. She'll
20 tell you about how Linda got paid by these men.

21 And I submit to you when this case is over and
22 when the evidence is all presented, we will have proven that
23 both of these defendants are guilty. We will prove that
24 they're both guilty of charges that the Judge has read to you
25 and that he will instruct you on and I'm going to stand back

Government - Opening Statement

51

1 up in front of you again and after I make my concluding
2 remarks in the summation, I'm going to ask each and every one
3 of you to go back to the jury room, look at all the evidence,
4 and to find them guilty. I'm going to ask you to stand up in
5 front of them and tell them they're guilty of what they did.

6 Now, I'd like to take a little bit of time and
7 talk about the charges. The Judge has read you the charges
8 and the Judge is going to give you the law and I'm not going
9 to touch on the law or try to tell you what the law is.

10 That's not my place. But I do want to talk briefly about
11 these charges and to tell you what I submit the evidence will
12 be as to those charges. So as this evidence comes in,
13 hopefully it will help you to say to yourself, oh, okay, I
14 think that pertains to count one or I think that piece
15 pertains to count five. That's the purpose in going through
16 this indictment.

17 Count one, now count one as the Judge has read
18 to you charges Linda O'Connor with selling a child for the
19 purpose of producing child pornography. The evidence will
20 show and we will prove to you that as to count one, between
21 August of 2006 and March of 2007, Linda O'Connor allowed Dean
22 Sacco access and control of Shannon. Now, the Judge will
23 tell you what it means to have -- to give custody or control
24 or to sell. He will define those things but what I submit to
25 you the evidence will show is that during this time frame as

Government - Opening Statement

52

1 to count one, Linda O'Connor repeatedly, and Shannon will
2 testify repeatedly, gave Dean Sacco access to Shannon. There
3 were times when she told Shannon to go upstairs with Dean
4 when she, Shannon O'Connor, told Linda that Dean was doing
5 things to me. Linda nevertheless told her to go with him.
6 And we will prove to you that Linda O'Connor not only knew
7 what Dean Sacco was doing to Shannon, she was present during
8 a number of those rapes and, therefore, when she told Shannon
9 to go, the evidence will convince you that she not only knew
10 about the rapes and was involved in them, but thereby giving
11 this access to Shannon, she was violating this count one
12 statute.

13 The count also the Judge read to you requires
14 that there have been an interstate commerce travel. We will
15 prove to you that Dean Sacco traveled from New Jersey to
16 Norwich and it was once he was in Norwich that he raped
17 Shannon. We will prove to you that there was a visual
18 depiction that was produced as the Judge described for you.
19 What was that that occurred? You will learn and hear that
20 during some of these rapes that Dean Sacco raped Shannon, he
21 photographed and he also videotaped these rapes. You'll also
22 learn from Shannon that on certain occasions of these rapes,
23 Linda O'Connor was not only present during the rapes, she
24 helped and assisted Dean Sacco to take pictures of Shannon
25 being raped. And it is these visual depictions that I submit

Government - Opening Statement

53

1 to you make both count one and count two, but as to count one
2 make Linda O'Connor not only guilty but accountable for count
3 one.

4 Count two I submit to you is kind of like a
5 mirror image of count one but it refers to Dean Sacco. Count
6 one charged Linda with selling or giving custody or giving
7 control of Shannon to Dean. Count two charges Dean with
8 obtaining custody of Shannon from Linda O'Connor. So in
9 count two, the evidence will show from Shannon and from
10 certain other exhibits that Dean Sacco took custody, albeit
11 for 15 minutes, whatever it was that it took for him to rape
12 her, but he took custody of Shannon and he took custody after
13 having traveled from New Jersey to Norwich and he took
14 custody of her to either take her upstairs and rape her or as
15 on one occasion he actually raped her downstairs in Linda's
16 apartment while Linda stood by and took pictures.

17 Count three, the sex trafficking count. Count
18 three. Count three charges both Linda and Dean Sacco. The
19 sex trafficking that's charged in count one we intend to
20 prove that with respect to Linda O'Connor, she violated this
21 statute when she not only allowed but at times engaged in sex
22 acts with Shannon, with George Lang, with Shannon and Dean
23 Sacco, and with the two men at the Best Western motel, along
24 with Shannon being raped. And the commercial aspect or the
25 commercial transaction that the Judge will instruct you the

Government - Opening Statement

54

1 law on, well we will prove that as to the Best Western, both
2 of those men paid Linda O'Connor in cash. As to Dean Sacco
3 you will hear evidence that Linda O'Connor was consistently
4 late on her rent to Dean Sacco and had difficulties paying
5 the rent and we will prove to you that you will find that the
6 evidence shows that that was the quid pro quo. Linda
7 O'Connor was allowed to stay in that apartment. Linda
8 O'Connor was allowed to skate by either not paying on time or
9 not paying her full share in exchange for Dean Sacco having
10 access to Shannon.

11 Count four and five, the evidence I submit
12 that we will produce will show as to count four, production
13 of child pornography. Count four deals with the times that
14 both Linda O'Connor and Dean Sacco took pictures of Shannon
15 being raped or sexually abused by Dean Sacco. It also
16 includes occasions where George Lang and Linda O'Connor
17 performed sex acts on Shannon and caused Shannon to perform
18 sex acts on them and pictures being taken by George or by
19 Linda O'Connor.

20 Count five charges Linda and there -- the
21 count five conduct we intend to prove to you is very similar
22 to count four but count five is a separate way that Linda
23 O'Connor committed these acts in that she's a parent and as a
24 parent she allowed her daughter to engage in sex acts while
25 either someone else or while she took photographs of that

1 conduct.

2 Count six we will prove that Dean Sacco
3 repeatedly traveled from New Jersey up to Norwich, New York
4 and that one of the purposes in his traveling was to engage
5 in sexual acts with Shannon O'Connor.

6 And count seven is the count that charges the
7 possession of child pornography. The child pornography in
8 this case that you will hear talked about is the child
9 pornography, that was photos and videotapes that were taken
10 by Dean Sacco and Linda O'Connor and George Lang.

11 We're going to start the timeline, if I can
12 put it that way, with witnesss that will eventually talk to
13 you about where it was that Shannon grew up and Linda
14 O'Connor were situated and what you're going to find from a
15 number of witnesses is it will take you back to Deposit,
16 New York. And you're going to find that Linda O'Connor was
17 living in Deposit at a couple different addresses throughout
18 the time frame. You're going to hear talk about a house at
19 Pine Street and Shannon will talk to you about Pine Street as
20 one of the places that she remembers more vividly living at.
21 She'll talk a little bit about that prior to that they lived
22 in Deposit at a trailer but she doesn't really remember a lot
23 about that. Pine Street is where all the things start to --
24 not only start to happen but where she talks about most of
25 the time that she has a memory of the details about what

Government - Opening Statement

56

1 started to happen. And then you'll hear talk about and
2 testimony about 11 River Street which is a place they went to
3 live after Pine Street. And the evidence will show and
4 Shannon will go through and tell you about how the things
5 that Linda O'Connor started to do to her started at Pine
6 Street and then they continued to 11 River Street when they
7 moved to River Street where they stayed until they were
8 flooded out in June of 2006.

9 And you will hear evidence from Shannon and
10 Renee Lang. Renee Lang is the wife of George Lang and you
11 will hear evidence from Renee and Shannon and a couple other
12 witnesses about the living -- the living style that was
13 occurring in Deposit when Linda O'Connor and Shannon were
14 living there. Renee will tell you she's known Linda O'Connor
15 since Linda O'Connor was a teenager, since she was a young
16 kid. And Linda will describe for you how on and off they had
17 contact with Linda O'Connor -- Renee will talk about that.
18 I'm sorry, I misspoke. And they kind of got reacquainted at
19 the time when Linda O'Connor and Shannon were living at Pine
20 Street and you will learn that Linda O'Connor gets her first
21 computer and you will learn that George was very much into
22 computers and he had his computer and Renee will describe for
23 you how it was kind of his thing. Nobody touched his
24 computer. Renee never touched his computer and Renee will
25 describe for you how George would go over to Linda O'Connor's

Government - Opening Statement

57

1 apartment at Pine Street and then it continued at 11 River
2 Street, and it was all computers. They were both into
3 getting computers. They started to send things to each
4 other, e-mails, and you will learn that for some time Linda
5 O'Connor was sexually abusing Shannon and then when Linda
6 O'Connor developed this close relationship with George, and
7 Linda O'Connor and Shannon would actually go to George and
8 Renee's house and they would spend weekends there sometimes
9 and you will learn that Shannon O'Connor one evening walked
10 in on them and they were engaged in sexual acts and you will
11 then learn that at some point Linda O'Connor brings Shannon
12 into their sexual conduct. And while they're at the Lang
13 residence Linda O'Connor engages Shannon to be involved in
14 the sex that she is having with George. You will learn that
15 George -- certain things that he liked Shannon to do. She'll
16 describe those things for you. She'll describe the fact that
17 George would on occasion show her on the computer things that
18 he liked. You will learn that George and Linda traded
19 pornography, adult pornography, back and forth. You will
20 learn that Shannon on occasion saw that at her mom's computer
21 on River Street. You will learn that while Linda O'Connor
22 lived at 11 River Street, she actually had two computers.
23 She brought the one she had over from Pine Street and then
24 Renee, George, and Linda O'Connor went to a computer store
25 where she purchased a second computer, computer that George

1 helped her pick out.

2 Now, these activities where Shannon is
3 involved with sexual acts being performed on her by George
4 and by Linda O'Connor, she's about 11 years old. I'm going
5 to introduce a couple of pictures that Renee had, excuse me,
6 of Shannon and George and you'll see those pictures. You'll
7 see those pictures of how old Shannon was at the time.
8 Shannon will describe for you how the sexual abuse at the
9 hand of Linda O'Connor continues throughout the time they
10 lived at 11 River Street. Renee will tell you and talk to
11 you about the times Linda O'Connor and Shannon were at their
12 house. They would spend the weekend at the house. Renee
13 will tell you she's not in the best of health. She was
14 diabetic and had a number of medications she was on and her
15 routine was quite often she would doze and nod off due to the
16 medications and really was not even, not only not awake, but
17 was not able to be awake when a lot of the things that
18 Shannon describes occurred. You'll also learn from Shannon
19 that it was at George Lang's residence that Linda O'Connor
20 and George Lang began to feed Shannon alcohol. She'd be
21 given alcoholic drinks to drink and you'll also hear about
22 that again and I'll talk a little bit about it later when
23 Shannon is at 45 Fair Street. That becomes a recurring thing
24 that is done for Shannon at times when Shannon complains to
25 Linda O'Connor that she -- she doesn't like what's being done

Government - Opening Statement

59

1 to her. She's getting headaches. And you will find and I
2 submit to you will find from the evidence that Shannon was
3 given alcoholic drinks in order to basically sedate her.
4 Sedate her in times when she is being either asked to perform
5 some sexual acts or is trying to deal with what has occurred
6 recently in terms of these sexual acts.

7 You'll also find from the evidence and you
8 will hear testimony from Shannon O'Connor that at 45 Fair
9 Street, when she complains to Linda O'Connor about things
10 that are happening to her and that she is getting really bad
11 headaches from everything that's going on with her, Linda
12 O'Connor starts to give her Vicodin. Vicodin which is a
13 prescription pain killer. And you will learn from Agent
14 Lyons that when he did a search warrant at 45 Fair Street, in
15 the basement, he found a Vicodin bottle with Linda O'Connor's
16 name on it, address, and prescription bottle was filled out.
17 You're also going to hear evidence from Renee Lang and also
18 from Shannon about how Linda O'Connor and this is, I'm
19 summarizing for you what I believe the evidence will show,
20 but how she latched on to George Lang. Linda O'Connor
21 latches on to him and you'll even hear testimony about this
22 plan that's hatched by Linda O'Connor and George Lang to
23 adopt Linda O'Connor and Shannon. He was going to and he
24 started paperwork to adopt them and actually make them a part
25 of his family. And you'll hear about this plan and Renee

Government - Opening Statement

60

1 will describe for you this very bizarre, for lack of a better
2 word, plan that kind of got hatched.

3 Now, during the time that this is occurring,
4 during the time that Linda O'Connor is sexually abusing and
5 molesting Shannon, and I submit to you during the time that
6 you're hearing about the sexual abuse between George and
7 Linda O'Connor to Shannon, they'll be evidence that will be
8 brought in that you will hear about and I submit to you what
9 you're going to learn, what you're going to find is Linda
10 O'Connor is financially irresponsible. They'll be repeated
11 things that you will find and hear in the evidence that shows
12 she just has an absolute lack of ability to conduct any kind
13 of responsible finances. They'll be times when you're going
14 to hear she is not able to not only pay their rent, she's not
15 able to buy food. They'll be events where you're going to
16 hear where she's incapable of paying utility bills and you're
17 going to see and hear evidence that she has income coming in
18 from different places but as quickly as it comes in, it just
19 disappears. You're going to hear evidence that her financial
20 irresponsibility is directly linked to what she does and
21 allows these other men to do to Shannon. And basically the
22 evidence will show you that Linda is always on her last
23 nickel, regardless of what amount the check was that came in.
24 Whether it was a flood check from being flooded out, whether
25 it was her public assistance, whatever it was it's gone

Government - Opening Statement

61

1 almost as soon as she cashes it. And you're going to hear
2 evidence about how when she can't pay for basics, she's
3 buying things like an 800-dollar dog, and I submit to you the
4 evidence will show you that it is financial irresponsibility
5 and financial incapability that drives her to allow other men
6 to do to Shannon what they did. This is the quid pro quo.
7 She is getting something back and in this case the evidence
8 will show you that from Dean Sacco it is a roof over her
9 head. From the men at the Best Western, it is cash. From
10 George Lang, it is this taking anything that George will give
11 her, whether it's spending the weekend at his place, whether
12 it's mooching off rides that he gives her, whether it's
13 taking computer knowledge and getting him to come over and do
14 stuff for her.

15 Now, in June of 2006, Linda O'Connor and
16 Shannon are flooded out and you'll hear that for a short
17 period they spent and were boarded by some friends in the
18 area. Friends that they knew from the local church. And
19 you'll then hear, Shannon will describe for you how they
20 found and Linda found this apartment and you will hear
21 evidence that they moved to this apartment right on or about
22 August 1 of 2006. Shannon will tell you at this point in
23 time she has been molested in the ways that I described for
24 you by that point in time for over two years and Shannon will
25 describe for you how when she, Shannon and Linda O'Connor,

Government - Opening Statement

62

1 moved to Norwich, New York, Linda O'Connor told Shannon
2 things will be different. And Shannon will describe for you,
3 tell you what she thought by that, what Shannon thought by
4 that and you'll find that Shannon for a glimpse of a moment
5 thought that the things that had been done to her were over.
6 And instead of being over, Shannon will go on and describe
7 for you what happens almost immediately when they move in to
8 45 Fair Street. Dean Sacco brutally rapes her almost within
9 the first couple of days that they move in to 45 Fair Street.

10 And I submit what you will find from the
11 evidence that comes in from this point of time, that instead
12 of things being different, Shannon, I submit to you the
13 evidence will show, simply enters another chamber of horrors
14 and this time that's Mr. Sacco's chambers of horrors. You
15 will find from the time they moved to 45 Fair Street until
16 Dean Sacco is arrested, Dean Sacco rapes Shannon at least
17 seven separate times from August 1 of 2006 through up until
18 November of 2007. And I'm going to walk through these events
19 for you right now, Shannon's life, if you find from the
20 evidence that it's been horrific and if you can imagine
21 begins to spiral downwards from August of 2006 through
22 November of 2007, all the things that you will find from the
23 evidence that happened to her. I submit to you the evidence
24 will show that the even more horrific things occur once they
25 move into 45 Fair Street. Shannon and Linda O'Connor move in

1 the beginning of August. Shannon is raped by Dean Sacco
2 almost the first -- within the first few days. The rape
3 occurs in the downstairs apartment. You will hear that
4 within a week, Shannon tries to commit suicide. Shannon
5 takes an overdose of Linda O'Connor's medications. She
6 spends several days at a Syracuse Hospital. You'll also hear
7 that at this point in time is the first time that the
8 Department of Social Services becomes involved in Shannon and
9 Linda O'Connor's life. You will hear testimony from Naomi
10 Panus. Naomi was the first social worker that worked the
11 case involving Linda O'Connor and Shannon. And you will hear
12 how after Shannon had tried to commit suicide, after she got
13 out of the hospital, she was put back in the custody of Linda
14 O'Connor and you will hear shortly thereafter Linda O'Connor
15 leaves Shannon alone at home, unsupervised, very little food.
16 Linda O'Connor you'll learn went to the hospital for some
17 procedure and just kind of left Shannon at the apartment by
18 herself. Social services, as a result of that you will
19 learn, returns and comes back into the picture and they
20 remove Shannon from the house. You will learn that at that
21 point, social services removes her from the house and Shannon
22 goes to live with Renee Lang.

23 Now, at this point in time, you're going to
24 learn George Lang is dead. He's deceased and died shortly
25 after the flood. The flood of 2006. So Shannon ends up

Government - Opening Statement

64

1 going to live with Renee Lang and for the first few weeks you
2 will learn things worked out okay. Shannon seemed to be
3 happier staying there than at home. You're going to learn
4 the Department of Social Services initiates a petition in
5 Family Court allowing Renee Lang to have temporary custody of
6 Shannon. You'll learn Shannon stays at Renee Lang's from
7 about August 21 to about October 11 of 2006 and you will
8 learn that and Renee will describe this for you. At some
9 point towards the latter part of September, Renee Lang's
10 daughter finds Shannon on a porn site and she also finds her
11 on the computer looking into pregnancy sites, teen pregnancy
12 sites and Renee will describe this event and tell you that it
13 caused her to reevaluate whether she could have Shannon and
14 really handle the issues that Shannon was presenting for her.
15 You will learn the Department of Social Services -- Renee
16 Lang says she really doesn't believe she can keep Shannon in
17 temporary custody, doesn't feel that she really can or wants
18 to be involved with a lot of issues that Shannon seems to be
19 presenting. DSS will tell you, Naomi Panus will tell you
20 they go back to Family Court and the Judge orders that
21 Shannon go back to Linda O'Connor's custody and you will
22 learn that one of the things that Shannon does raise is she
23 tells the folks that Dean Sacco is creepy and creeps her out
24 and you will learn that the Family Court Judge orders Linda
25 O'Connor not to allow Dean Sacco unsupervised access or

Government - Opening Statement

65

1 unsupervised contact with Shannon O'Connor. And you will
2 learn from the evidence that as of October 11, 2006, Shannon
3 O'Connor is back with Linda O'Connor at 45 Fair Street. And
4 one of the things that you will find from the evidence is
5 that Linda O'Connor showers Shannon with gifts right around
6 the time that this thing happens at Renee Lang's. She sends
7 her gifts telling her about all the things she's buying for
8 her in her room when she comes back and you'll also hear that
9 this is the same thing that Linda O'Connor did when they
10 moved to Norwich back in August of 2006. And I submit to you
11 the evidence will show you that this becomes a recurring theme
12 on Linda O'Connor. That every time things with Shannon are
13 not working, she does this spending on her. Buys her things
14 that might be extravagant or not really appropriate in order
15 to win her favor.

16 When Shannon comes back October 11, she's
17 happy to be back. You'll find that Shannon appears to be
18 happy to come back to Linda O'Connor. From October 11, 2006
19 until February 25, 2007, Dean Sacco rapes Shannon six
20 additional times. And from October 11 of 2006 up until
21 February 25, 2006, or 7, excuse me, Linda O'Connor takes
22 Shannon to the Best Western on those two occasions where she
23 pimps her out. You will find and hear that around the middle
24 of November of 2006, a new social worker comes in, Elizabeth
25 Chesebro. You'll learn that Naomi who had been working in

1 Chenango County and was now transferring to Broome County and
2 Elizabeth Chesebro was just assigned to take over the social
3 work case. And you will learn that one of the first things
4 that occurs or one of the more significant things that
5 occurred when Elizabeth Chesebro becomes the social worker is
6 there's two events in December, December 6 and December 19,
7 where Dean Sacco calls DSS and is complaining that Linda
8 O'Connor's not paying in rent and that her rent is over due.
9 And then he calls back that he's going to evict Linda
10 O'Connor because of lack of payment of rent. Liz Chesebro
11 will testify and tell you she confronts Linda O'Connor and
12 talks to her about this and says what's the problem here,
13 what's going on? Liz Chesebro will also tell you about the
14 financial irresponsibility of Linda O'Connor. She's unable
15 to do the basic things as far as money that she has, pay
16 basic utilities and put basic food on the table. Linda
17 Chesebro will tell you after she has this discussion with
18 Linda O'Connor that Linda calls her back at some point soon
19 thereafter, I talked to the landlord after and everything is
20 all set. Everything is all squared away.

21 The rapes of Shannon, after the August rape by
22 Dean Sacco, the next time that Dean Sacco rapes Shannon is --
23 and Shannon will tell you about this -- is toward the end of
24 October, early November 2006. She'll describe how Dean and
25 Linda have a conversation. She can't hear what they're

1 talking about and then Linda instructs Shannon to go upstairs
2 at 45 Fair Street. Now you're going to learn at that point
3 in time the upstairs tenants had moved out. Prior to that,
4 you may hear mention of the Pipers, elderly couple, Mr. and
5 Mrs. Piper, who lived there. They moved out at some point
6 and Dean Sacco was coming up on the weekends and was
7 preparing the apartment and kind of fixing it up to rent it
8 out. Shannon will describe for you there was a mattress
9 upstairs. She'll describe for you on that occasion, end of
10 October, early November, Dean brought her upstairs after
11 Linda O'Connor instructed her to go with him upstairs; that
12 he had a camera and it was set up on a tripod and she'll
13 describe a small camera. She says that she started to resist
14 and that Dean slapped her and threatened her to do what he
15 said. She will tell you about the rape and then she will
16 tell you when he was done with her she came downstairs and
17 Linda O'Connor was downstairs and Shannon walked up to Linda
18 O'Connor and said to her, he is doing things to me. And
19 Shannon will describe those words that are -- that she will
20 tell you that are burned in her memory. Linda O'Connor said
21 to her it is better than being homeless.

22 The next rape occurs on Thanksgiving 2006.
23 That rape of Shannon occurs downstairs in Linda O'Connor's
24 apartment. Linda O'Connor participates in that rape with
25 Shannon. You will hear mention of a dog Buddy. Shannon will

Government - Opening Statement

68

1 tell you about her dog. This is the dog that Linda O'Connor
2 bought Shannon when they moved from Norwich to 45 Fair Street
3 in August of '06. Linda O'Connor spends, you'll see the
4 receipt, it's about \$600 for this dog. She buys it for
5 Shannon, not that Shannon didn't love and appreciate it.
6 She'll tell you Buddy was her best friend but Linda O'Connor
7 spends this money, \$600 dog, and then a few months later is
8 not able to pay rent or put food on the table. They locked
9 up Buddy in a bedroom downstairs Thanksgiving of 2006. In
10 the bedroom was Linda O'Connor and Dean Sacco. Dean Sacco
11 began to have Linda O'Connor perform oral sex on him.
12 Shannon was told to perform oral sex on Dean and during this
13 time in the bedroom Shannon watches as her mother takes
14 pictures while she's performing sex on Dean Sacco. Shannon
15 tells you that the camera, it didn't belong to them. She
16 never saw it before. She says it wasn't hers or her
17 mother's.

18 The next event she'll talk to you about
19 happens on December 1. This is where Linda O'Connor takes
20 her to the Best Western motel. You will see the receipts
21 from the Best Western where Linda O'Connor checks in from
22 December 1 and stays until December 3. Shannon will tell you
23 that in preparation for going to that hotel, Buddy, the dog,
24 Linda O'Connor calls up the Pet Station Veterinarian in
25 Norwich and Shannon will describe for you how she makes up

Government - Opening Statement

69

1 this story that the dog has hiccups and she drops the dog off
2 and you'll see the records where the dog is left with this
3 veterinarian from November 30 through December 4. And it was
4 on this weekend that Linda O'Connor brings Shannon to the
5 Best Western. Shannon will describe for you, once they were
6 staying and at the Best Western hotel, a man showed up at the
7 room. Shannon was instructed to do what he wants. And
8 Shannon will describe for you how based on what she had to do
9 at that hotel, Linda O'Connor was given money by this man.
10 She will then describe for you the rape that happens just
11 before Christmas of 2006. Dean Sacco is again visiting up
12 from New Jersey. Linda directs Shannon to go upstairs with
13 Dean and she's again raped on that mattress. Shannon tells
14 you -- will tell you that Dean didn't take pictures on this
15 occasion. Raped her, had her do different things to him, and
16 in the middle of being raped, Shannon will describe for you
17 how a friend and her father stopped in to check on her, the
18 Parmalees. Jim Parmalee and Lisa Parmalee will testify,
19 their daughter Brooke was a classmate of Shannon's and
20 Shannon had not been in school that whole week and we're
21 going to introduce school record attendance to show that week
22 she was out and Brooke and her dad just stopped by to kind of
23 checkup on her, make sure she was okay. Shannon will tell
24 you Linda O'Connor came running up the stairs while Dean
25 Sacco is raping Shannon and she comes into the apartment,

Government - Opening Statement

70

1 tells Shannon to get her clothes on, go downstairs because
2 Brooke and her father are downstairs, came by to say hello.
3 And Shannon will tell you how she had to hurry up, gets her
4 clothes on and goes downstairs. Shannon will tell you after
5 Brooke and her father leave, she goes back upstairs. Dean is
6 mad at her and Dean Sacco is mad at her because she's not
7 cooperating and doing what he wants her to do.

8 Shannon will describe for you the next time
9 that Dean Sacco raped her. It was actually on her birthday.
10 Two days after Christmas Dean Sacco comes up from New Jersey.
11 She's again told to go upstairs with him. She goes upstairs,
12 and Linda comes upstairs. Dean Sacco rapes her. Dean Sacco
13 then orders Shannon to perform sex while she's on top of him
14 and at one point in time she says Dean Sacco is wearing
15 nothing but this cowboy hat. Agent Lyons will testify and
16 tell you that when he executed a search warrant at 45 Fair
17 Street in the basement, and you'll see it, was this cowboy
18 hat and Shannon will identify that cowboy hat as the hat that
19 he was wearing on the date that he raped her on her birthday.

20 Some time in January she'll describe a second
21 trip to the Best Western motel. Shannon is taken by Linda
22 O'Connor. She'll tell you and testify that it was some time
23 after New Year's she knows that and believes it was before
24 Valentine's Day, and she says a different man showed up and,
25 in fact, she'll tell you he was already there. He was in the

Government - Opening Statement

71

1 room when they got there. And she will testify and tell you
2 that this was a different man and this man had a tattoo, a
3 tattoo on his lower back. Some kind -- she'll describe it
4 for you. She describes and she'll describe for you it was
5 like a Chinese script. She couldn't tell what it was or read
6 it. And she'll tell you that when this man was raping her,
7 Linda O'Connor had gone -- Shannon will testify and tell you
8 she doesn't know if it was over to Dunkin Donuts or
9 downstairs but she comes back and she's eating a donut while
10 this man is raping her in the room.

11 She'll testify about the next time Dean Sacco
12 rapes her January of 2007. Dean takes her upstairs again,
13 rapes her on the mattress upstairs. She will tell you and
14 testify about how Linda O'Connor was downstairs watching TV
15 and how when Shannon complained to her after the rape, Linda
16 O'Connor's solution was she gives Shannon some Vicodin.
17 Tells her to take them, it will make her feel better.
18 Shannon will also describe for you how at this time in
19 January she, being Linda O'Connor and Dean Sacco, when he's
20 there, start to give Shannon O'Connor alcoholic drinks, wine
21 coolers.

22 Shannon will describe the final time that Dean
23 Sacco raped her, that being February of 2007. Dean Sacco
24 takes her upstairs to that empty apartment, rapes her on the
25 mattress and she says when he brings her upstairs on this

Government - Opening Statement

72

1 occasion, Dean Sacco has these candles lit up in this room
2 where he's raping her and when she came upstairs she said
3 this was the first time she noticed this camera that was used
4 on that occasion. It was set up on some boxes. And she will
5 tell you how this camera was different than the previous
6 camera that Dean Sacco and Linda O'Connor had used. And
7 Shannon will identify for you a video camera that will be
8 introduced into evidence here and you will learn from
9 Investigator Terry Shultz that this video camera that she
10 identified was taken out of a storage unit pursuant to this
11 warrant. A storage unit that had a large amount of
12 belongings of Mr. Dean Sacco. A storage unit was -- Storage
13 Center in Norwich, New York and Investigator Shultz will
14 describe to you how during the search warrant they recovered
15 two cameras, but one of them was this video camera and
16 Shannon will identify that video camera as being the camera
17 that Dean Sacco used on this February 2007 rape.

18 Shannon will describe for you how in January
19 of 2007 she hears Linda O'Connor and Dean Sacco arguing about
20 rent, rent money, and she will also tell you about the fact
21 that that same month she overhears this, Linda O'Connor ends
22 up buying another dog and a dog for \$800 from the Pet Depot
23 in January of 2007. And you'll see the receipt for that.
24 It's not just Shannon that's going to tell you that. Linda
25 O'Connor buys this dog at a time when she's arguing over

Government - Opening Statement

73

1 rent, when Dean is calling DSS that she can't pay rent and
2 soon, thereafter, the next month, you'll hear testimony about
3 how Linda O'Connor doesn't have enough money to buy food and
4 she and Shannon actually leave a Pizza Hut without paying and
5 Liz Chesebro will testify about talking to Linda O'Connor
6 when this event happens and Linda O'Connor fully admitting
7 she just doesn't have money to buy Shannon a meal.

8 February 25, 2007, Linda O'Connor and Shannon
9 walk out of Pizza Hut without paying and this causes DSS, and
10 at that point Liz Chesebro was the social worker, to again
11 come in and take Shannon out of Linda O'Connor's custody.
12 And from this point on Shannon O'Connor never goes back to
13 Linda O'Connor's custody.

14 As you'll recall the evidence will show you
15 that before when she went to Renee Lang's she came back and
16 Liz Chesebro will testify that after February 25, 2007
17 Shannon O'Connor never goes to Linda O'Connor's custody to
18 this day. From February 26, 2007, you will hear testimony
19 from Shannon O'Connor, from Liz Chesebro, that Shannon
20 remains in a family, foster care family from February 26,
21 2007 until September 19 of 2007. Liz Chesebro will testify
22 that following Shannon being removed from Linda O'Connor's
23 custody, she talks to Linda O'Connor. Linda admits to her
24 she doesn't have the money, the money's not around. She's
25 not paying things. She's having trouble putting food on the

Government - Opening Statement

74

1 table. There's a Family Court appearance where the judge
2 orders Shannon to go into foster care at least through
3 October of 2007. You will hear from Liz Chesebro how on
4 March 2 of 2007 is the first time that Shannon begins to
5 disclose what has been happening to her. March 2, 2007 Liz
6 Chesebro will tell you she got a call from one of Shannon's
7 school teachers. Liz Chesebro will tell you based upon this
8 call, Shannon had disclosed some things to the school
9 teacher. She then rushes over to the foster care family
10 where Shannon is and when Shannon is back -- when they bring
11 her back from school, she sits down with Shannon for the
12 first time. Liz will tell you, Shannon will tell you --
13 discloses what Dean Sacco had been doing to Shannon O'Connor.
14 Pat Blenis, Norwich Police Department, is notified March 2.
15 He will describe for you that is when he becomes involved in
16 the investigation in the case. Liz Chesebro interviews
17 Shannon at the foster care family home. She then immediately
18 calls the Norwich Police Department. Pat Blenis will tell
19 you he immediately asks them to come down. They come to his
20 office. He then sits down and interviews Shannon about the
21 things that she discloses that Dean Sacco had been doing to
22 her. And Shannon will tell you -- she described the rapes
23 and the conduct that Dean Sacco had been involved in between
24 August of '06 through February of '07.

25 And you'll also learn, Shannon will tell you

Government - Opening Statement

75

1 and she'll tell you why she said absolutely nothing about
2 Linda O'Connor's sexual abuse and Shannon O'Connor will tell
3 you she disclosed nothing about George Lang and Linda
4 O'Connor. You will learn then based upon the interview now
5 by Sergeant Blenis that on March 12, 2007, Liz took Shannon
6 to the Chenango Memorial Hospital. Dr. Waters will testify
7 and Dr. Waters will testify that he did a physical
8 examination of Shannon and Dr. Waters will tell you that
9 based upon his physical examination, Shannon O'Connor had
10 sexual intercourse. He will tell you her hymen was
11 completely ripped and torn, non-existent. He will tell you
12 based upon her examination, the sexual intercourse was not
13 like it just happened hours ago but he could tell by the
14 examination that it's something that had been -- that had
15 occurred at least some time in the past.

16 DSS files a petition in Family Court based
17 upon what they call neglect by Linda O'Connor failing to
18 provide basic needs for Shannon. On March 13 of 2007, in
19 Family Court, Linda O'Connor admits to the petition. The
20 judge finds neglect occurred and he orders Shannon into
21 foster care. Liz Chesebro will describe for you Shannon's
22 reaction. Shannon will tell you she was ecstatic. She'll
23 tell you about her experience in the foster family where
24 there were a number of other children that she was with and
25 she'll describe for you what it felt like to be in a family.

Government - Opening Statement

76

1 Sergeant Blenis starts his criminal
2 investigation at this point. March 2 he learns of
3 information provided by Shannon regarding Dean Sacco. One of
4 the things that Investigator Blenis does early on is he sits
5 down with Shannon and he asks Shannon if she'd be willing to
6 put telephone calls into Dean Sacco and Shannon agrees. And
7 you will hear the telephone conversations between Mr. Dean
8 Sacco and Shannon O'Connor on March 14 and March 15 of 2007
9 from the Norwich Police Department. Shannon O'Connor, she
10 doesn't place the calls but the police place calls to Dean
11 Sacco and they tape record these calls and you will hear it
12 and it's about a total of about 45, 50 minutes of telephone
13 conversation and it's recorded and you will hear on this tape
14 Dean Sacco talking to Shannon and Sergeant Blenis will
15 testify and tell us that when he sat down with Shannon, he
16 asked her to talk to Dean Sacco and asked her because she had
17 disclosed rape and condoms, to talk to him about the sex that
18 they were having and the condoms and that she was concerned
19 that she might get pregnant. And Sergeant Blenis will tell
20 you the whole point of these calls was to get Dean Sacco to
21 talk about this so Sergeant Blenis could accumulate evidence
22 and arrest Dean Sacco. That was the purpose. And you will
23 hear on these conversations that will be played for you Dean
24 Sacco, and I submit to you when you listen to these phone
25 conversations, Dean Sacco all but admits everything Shannon

Government - Opening Statement

77

1 is saying. You will hear on these phone conversations how he
2 manipulates her on the telephone. You will hear Dean Sacco,
3 how he is trying to make her feel it's her fault and her
4 responsibility. You will hear Dean Sacco as he lays this
5 guilt trip on Shannon. You will hear how at one point on
6 March 15 he suspects that she's gone to the police and even
7 asks her directly on the phone, are you at the police
8 station? Have you gone to the police about this? These
9 phone conversations between Shannon and Dean Sacco happen
10 March 14 and March 15. Liz Chesebro will tell you that on
11 March 13 she has a conversation with Linda O'Connor, and she
12 will testify for you what's on Linda O'Connor mind. At this
13 point in time Shannon has been removed to foster care. You
14 will hear evidence that she is ordered to be in foster care
15 through at least October of '07 and Liz Chesebro will testify
16 and tell you Linda O'Connor says to her what's on her mind is
17 I'm not going to get as much money because Shannon is not in
18 my household now, am I? And Liz Chesebro will testify for
19 you that Linda O'Connor tells Liz Chesebro that she allowed
20 Sacco to have complete access to Shannon O'Connor, after the
21 judge in Family Court had ordered her not to, and Liz
22 Chesebro will tell you that, Liz, excuse me, Linda O'Connor
23 told Liz Chesebro that she didn't think there was any reason
24 to not allow him to have access to her.

25 Pat Blenis will testify that he interviewed

Government - Opening Statement

78

1 Linda O'Connor or March 22, 2007, about a week after these
2 calls are placed and recorded to Dean Sacco and during the
3 course of this interview of Linda O'Connor, Sergeant Blenis
4 will tell you Linda O'Connor admitted, yeah, I let Dean Sacco
5 have access to her. She even let him take her with this
6 other guy named Steve somewhere. She didn't think there was
7 any problem. She didn't think there was anything wrong with
8 it. And Sergeant Blenis will tell you, this is after she was
9 ordered not to allow Sacco access to Shannon O'Connor
10 unsupervised. Sergeant Blenis will also testify during this
11 interview on March 22, Linda O'Connor admits to him that she
12 was behind on her rent; that she was having difficulty,
13 trouble paying her rent; that she had financial difficulties
14 and that there were times when the rent was not getting to
15 Dean Sacco.

16 Sergeant Blenis will also testify that
17 subsequent to the phone calls placed to Dean Sacco that were
18 recorded and the information that he had gathered, including
19 an interview of Shannon, that he obtains and files charges
20 against Dean Sacco. He will testify that Dean Sacco was
21 arrested on March 19, 2007 in New Jersey and then
22 approximately the first week of April he is brought back to
23 New York State from the State of New Jersey. Liz Chesebro
24 will testify and tell you that Shannon starts to disclose the
25 alcohol that she was being provided by Linda O'Connor.

Government - Opening Statement

79

1 From March 15, 2006 through September 19,
2 excuse me, March 15 of 2007 through September 19 of 2007,
3 Shannon remains in a foster care family. You will hear Liz
4 Chesebro and Shannon describe for you what starts to happen
5 to Shannon towards August of 2007 and September of 2007.
6 Shannon and Liz Chesebro will both describe Shannon begins to
7 spiral downward. She starts to think about suicide again.
8 She starts to talk about it and the family that she's living
9 with in foster care believes it's serious enough where they
10 not only inform DSS, but believe they need to have more
11 supervision of Shannon.

12 As of September 19, 2007, you're going to
13 learn Shannon goes to the Binghamton Health Center, used to
14 be called the Psychiatric Center. I believe now they call it
15 the Greater Binghamton Health Center, and she is under
16 supervision, under guard because of the suicide notions that
17 she is not only talking about but seriously talking about.
18 Once she's admitted to the Binghamton Crisis Center, Health
19 Center, you will hear testimony from Liz Chesebro that in
20 October, starting October of 2007, and then continuing into
21 December of 2007, Shannon O'Connor begins to disclose the
22 other things that she had never told anybody about. She --
23 you will hear her testifying and you will hear Liz Chesebro
24 testify that she begins to disclose what Linda O'Connor did
25 to her, what George Lang did to her, what these men in the

1 hotels did to her and she begins to tell the people that are
2 working at the crisis center and then she's interviewed by
3 Pat Blenis after he's informed. You will also learn from
4 Shannon and from Liz Chesebro that once she -- Shannon has
5 disclosed things that Linda O'Connor had been doing to her,
6 Shannon is told at some point that it's possible the police
7 will have to confront and talk to Linda O'Connor about these
8 things. And you will learn very shortly after Shannon learns
9 that, and that being on or about November 6, she, Shannon,
10 tries to commit suicide. You will learn that Shannon tries
11 to hang herself.

12 Starting in November of 2007, Pat Blenis
13 starts to investigate and starts to look at Linda O'Connor as
14 being involved in sexual abuse of Shannon. You will hear
15 that in January of 2008, the FBI is informed and for the
16 first time the FBI learns of the activities that have
17 occurred to Shannon. You will learn that at that point in
18 time in January, once the case is referred and federal
19 authorities are involved, you will learn that there are a
20 number of investigative things that are done. You will learn
21 that among the many things that were done at that point in
22 time, search warrants were conducted. A search warrant was
23 obtained for 14 Miller Street. You will learn at 14 Miller
24 Street is where Linda O'Connor was living in February of
25 2008. You're also going to learn from the evidence Linda

Government - Opening Statement

81

1 O'Connor remained and continued to live in Dean Sacco's house
2 at 45 Fair Street up until about November of 2007 and then
3 moved to 14 Miller Street. The search warrant at 14 Miller
4 Street, among the things that were recovered there were
5 photos showing Linda and Shannon at the Best Western hotel.
6 They're not pornographic photos but what you will find in
7 these photos -- and Michael Cashman from the Johnson City
8 Police Department will testify -- you'll find these photos
9 definitely are photos taken at the Best Western in Johnson
10 City. You will learn about photos recovered from 14 Miller
11 Street showing the 11 River Street home I should say. You'll
12 see a picture where there are two computers pictured in it.
13 Those are the two computers that Linda O'Connor had while
14 living at River Street. You will learn that search warrant
15 was conducted at a storage center on or about March 11 of
16 2008. This is a storage center belonging to Dean Sacco.
17 Found in the storage center of Dean Sacco -- you're going to
18 learn how the property got in there. Clesson Lockwood, a
19 handyman, was directed by Mr. Sacco to gather up all his
20 belongings at 45 Fair Street and put them into this storage
21 unit. In the storage unit, itself, you're going to see a big
22 foot locker with Dean Sacco's name on it. There were items
23 recovered in there that have his name and address on them.
24 You will also learn that storage center that Dean Sacco's
25 materials were found in was being paid for in the last five

1 months by his mother. Her name is Elizabeth Dinunzio.
2 You'll see checks where she is paying for that storage unit.
3 Among many things found in the storage unit you'll find a
4 video camera Shannon describes used to videotape the rape in
5 February 2007. That video camera is found in that unit. In
6 that unit there were unwrapped condoms that were found and
7 you will hear investigators tell you how they found in that
8 storage unit a used condom, and this used condom was found in
9 a dresser, Mr. Sacco's dresser, and it was in a box that
10 contained various envelopes and what you will learn is that
11 condom was sent to the Albany New York State Police DNA lab
12 and you will learn from the DNA expert that will testify that
13 on the outside of the condom is a perfect match of Shannon
14 O'Connor's DNA. You will also learn that on the inside of
15 the condom is DNA that is very consistent with Shannon
16 O'Connor. You will also learn male DNA, there was not enough
17 in order for any kind of a match to be made but you will
18 learn that this condom, which Shannon's was found in, was
19 Mr. Sacco's dresser in that storage center.

20 You will also learn that a search was
21 conducted at 45 Fair Street by the FBI. In that house, which
22 is the house where Linda O'Connor and Shannon lived and where
23 Dean Sacco raped Shannon. You will learn in the basement
24 they found that cowboy hat, the cowboy hat Shannon had
25 described prior to the search warrant being conducted. You

Government - Opening Statement

83

1 will learn in that house the FBI found a prescription bottle
2 of Vicodin in Linda O'Connor's name. You will also learn in
3 that house there was a Bartel and James wine cooler, empty
4 bottle found. FBI Special Agent Jim Lyons will testify that
5 in the course of conducting the investigation, once they
6 became involved, he went down to New Jersey to interview a
7 number of people, including Bill Sorvino. Bill Sorvino will
8 testify. Bill Sorvino is Dean Sacco's employer. He will
9 tell you about how Dean Sacco complained to him about his
10 tenants in Norwich not paying rent. The FBI recovered in New
11 Jersey from Bill Sorvino a number of different items. Agent
12 Lyons will testify that among the many items that were found,
13 there were 8-millimeter tapes and on these tapes, Jim Lyons
14 will describe for you how when he viewed these tapes, hours
15 and hours of tapes, that Dean Sacco was a prolific
16 videographer. He videotaped everything. Agent Lyons will
17 describe for you how Dean Sacco would set up the video camera
18 and videotape himself for hours at the workplace answering
19 the phone, interacting with the camera as if he's on some
20 live TV show. Agent Lyons will describe for you how on
21 these -- on video there's hours where Dean Sacco is sitting
22 there reading Italian. Agent Lyons will describe for you how
23 on one of these tapes in the middle of the Italian reading
24 session there is a clip where Dean Sacco is videotaping a
25 woman. She has her clothes on but he's talking to her why it

Government - Opening Statement

84

1 is she wants to star in a pornographic movie. You will watch
2 a videotape where Dean Sacco is videotaping himself at work
3 and he answers a phone call from a person calling in about an
4 ad that Dean Sacco put in the paper looking for girls to star
5 in porn movies. You will see videos where Dean Sacco and a
6 bunch of buddies -- Dean Sacco is describing for his buddies
7 why he bought this video camera, same camera Terry Shultz
8 found in that storage center. You will hear from Dean Sacco
9 in his own words why he bought this video camera. He had
10 this great idea, you will hear it and see it, to hire girls
11 for \$150 to star in porn flicks to sell to make money. You
12 will hear Agent Lyons reading from diaries from Dean Sacco
13 where he describes sexual attraction to minors, where he
14 describes urges to do and have sex with minors. You will
15 hear from Dean Sacco's diaries where he is talking about
16 producing pornography with young girls. You will see a
17 brochure that was recovered at the storage center where Dean
18 Sacco gets information to travel to Thailand, to Philippines
19 to have sex with young girls. You will look at his passport
20 where he traveled to the Dominican Republic. You will hear
21 an individual by the name of Amanda Rising from New Jersey
22 who was a landlord of his where he told him he traveled to
23 the Dominican Republic to have sex with young girls. You
24 will hear things that Dean Sacco wrote in a book, an
25 autobiography, that has his picture on the front cover where

Government - Opening Statement

85

1 he describes his sexual attraction to young girls and
2 describes where he actually had committed sexual acts on
3 young girls.

4 I'm going to sit down now. I've tried to give
5 you an overview, an overview of what these two people did to
6 Shannon O'Connor. I tried to give you those pieces so you
7 can have them out there so as things come into evidence you
8 have an idea what they belong to, what we're talking about.
9 You will hear from Shannon. She will describe all the things
10 I said she would. All these pieces of information and
11 evidence you will see it. And when this is all said and
12 done, I'm going to stand in front of you and I'm going to ask
13 you to find Dean Sacco and Linda O'Connor guilty. I'm going
14 to ask you to convict them because this is what they did and
15 what they're charged with that they should be held
16 accountable for.

17 Thank you for your attention, especially for
18 the last hour and a half.

19 THE COURT: All right, ladies and gentlemen.
20 We're going to take a short recess now. See counsel at
21 side-bar, please.

22 (Short break taken).

23 (Jury present).

24 THE COURT: All right, ladies and gentlemen.
25 What's going to happen now is Mr. Fischer is going to address

Mr. Fischer - Opening Statement

86

1 you on behalf of Mr. Sacco with his opening statement and
2 then we're going to recess for the evening and tomorrow
3 morning we're going to hear the last opening statement by
4 Miss Peebles on behalf of Miss O'Connor.

5 So, Mr. Fischer, are you prepared?

6 MR. FISCHER: Thank you, your Honor. May it
7 please the Court, counsel, members of the jury, good
8 afternoon. I hate to do this at 4:45, it's a hard to time to
9 do it, but I think it's a good time to do it now. I can
10 guarantee I'm not going to be as, how can I say it nicely, as
11 long as Mr. Lovric was in describing what I expect this proof
12 may say. It's important though that you understand that we
13 are advocates. We advocate our respective positions. Mr.
14 Lovric is a very good lawyer. He did a heck of a job in
15 explaining the aspect or those aspects of evidence that he
16 expects will support his case. You know, as I watched from
17 behind and listened more than anything, I recognized a tone
18 to he used in telling you that story in sounding familiar
19 because it's a tone I use I when it's monotonous and it helps
20 send disbelief. For every fact you just heard about there
21 are five or six other related facts and sometimes those
22 related facts, those five or six related facts are in fact
23 contradictory of the one facts that you just heard and I'm
24 not going to go through the ten thousand bits of evidence
25 that you're going to hear during the course of this trial

Mr. Fischer - Opening Statement

87

1 right now and say this is why you should not convict. There
2 will come a time to do that. I'm not going to do it now.

3 What I'm going to ask of you is keep an open
4 mind because at the end of that opening statement by the
5 government you close up shop, walk out the door, this is a
6 done deal, we don't have to worry about anything else but
7 that is not how this works. It's that darn evidence and that
8 law that complicates everything and it is complicated. It is
9 complicated. I've been a lawyer for 20 years. I've
10 researched the law set out in this indictment. I listened to
11 Judge McAvoy explain the law here. It is a very long way
12 from simple, but that's where the Judge started. It's
13 basically where the prosecutor started. I think it's
14 important I address the law issue first.

15 Part of your obligation here, you all stood
16 up, raised your hand, took your solemn oath. I hope
17 everybody understands just how serious that is. There's a
18 lot involved with that. These a huge undertaken. That's a
19 responsibility you all accepted that is huge. It goes to the
20 heart of our government, heart of our citizens of who we are,
21 how we decide things civilly. It's a real important
22 obligation and part of the obligation is to make sure before
23 you render a verdict in this case that you understand the
24 law. And that is not easy. But it's important because the
25 only way there can be a fair judgment, whether it's

1 conviction or acquittal, is understanding first what the law
2 is. So at the end of the day you've gotten the preface what
3 the law is, what the rules are, so when you hear the evidence
4 you get a generalized context but you haven't gotten a full
5 understanding yet so with respect to that aspect of it, I ask
6 you to keep an open mind. Don't decide that guilt or
7 innocence at this point based on the opening and little bit
8 of law that you've heard. With respect to the application of
9 that law to the facts, Mr. Lovric said to you, as I
10 understood it, I wrote it down, find them guilty of what they
11 did. I'm not sure what that means. It doesn't mean anything
12 to me because, first of all, you've got to find out what they
13 did and if you find what they did, well, of course, they're
14 guilty of it because they did it. What you need to do is
15 something different than find them guilty of what they did
16 though. In this case your job is find out whether what they
17 did, what they're guilty of doing physically requires that
18 you find them guilty under the rules. Entirely different
19 concepts. Okay. So you can't just find them guilty of what
20 they did and render a guilty verdict on that basis. It's not
21 how it works. What they did in finding out what they did is
22 really hard. That's probably the primary difficult job that
23 you all have here. Listening to this evidence and the
24 evidence is complicated, it's contradictory on many points.
25 The primary witness in this case, I don't care how you cut it

1 and I don't care how many other police officers, DSS people,
2 investigators, or other people you put up here and I'm not
3 joking when I say the documentation stands this high
4 (indicating), okay, it all comes down to primarily and almost
5 exclusively to one person. A young kid now 14 I guess. An
6 ordinary kid, no. To the extent that any upbringing can be
7 ordinary, her upbringing is not ordinary. Her upbringing was
8 truly tragic, terrible. All the things that happened to her
9 before August of 2006 when Mr. Sacco's life and Shannon
10 O'Connor's life coincided. All of the things that happened
11 to her prior to that time but some really tragic, terrible,
12 awful things occurred to her. Since that time medical
13 professionals have worked with her and as I read some of the
14 notes that I expect you will see, one of the diagnoses that
15 I've seen was that this girl is severely mentally ill. All
16 right. So understand that when she testifies and when the
17 prosecution rests their case upon her credibility. They're
18 resting their case upon the credibility of somebody who has a
19 legitimate severe mental illness to the extent where it is
20 documented that she has -- she hallucinates. She's had
21 auditory hallucinations. Crying babies. That's the
22 foundation for the prosecutor's case here. The factual basis
23 for it.

24 There are extraneous facts that surround her
25 testimony that help you determine some aspects of the factual

1 events here at issue, but there's no way around it. Their
2 primary case is based upon this girl, Shannon O'Connor. And
3 you feel bad, I feel badly for her, I really do. All of the
4 things that happened to her is truly a tragedy. What
5 happened to this girl is tragic. But you cannot say that
6 because you feel badly for her you can ignore the truth. And
7 I think that what you'll hear in that regard is that as to
8 any given version of events that she provides, there are
9 couple, one, two, three, four other versions of the same set
10 of facts. One example that leads to mind, Mr. Lovric said
11 that according to Shannon she had first contact with
12 Mr. O'Connor, I'm sorry, with Mr. Sacco shortly after
13 August 1 thereabouts and that soon after that, she
14 committed -- she tried to commit suicide. Because of that
15 event, he attributes that. If you go to the records, let's
16 go to the records, her own words, her own words elicited by
17 some people who are trying to help her. You get two
18 different versions really I guess. You got Chenango County
19 Mental Health person, client says the day before mom asked
20 Shannon why she didn't take the dog out, this new puppy
21 Buddy, they are trying to house train the dog, mom started
22 yelling and hitting her. Also later on 9/27/06 -- I'm sorry.
23 8/11/06, couple days later, a record that mother is
24 physically abusive to Shannon on regular basis and that's why
25 she's hospitalized. That is one example of contradictory

1 versions as to the facts in this case coming from the mouth
2 of the primary and nearly exclusive witness as to events that
3 occurred here. The record is replete with that and the
4 cross-examination, it's my job to cross-examine. It's going
5 to be the job of Miss Peebles and myself, it's our job to
6 cross-examine and try to figure out what part she's telling
7 the truth and what part she's telling is not the truth. And
8 you know so much of this case is based on her testimony and
9 you'll have to figure out whether she's actually
10 affirmatively lying or she's just fantasizing, confabulating,
11 confused or reasons for the clearly contradictory versions
12 she's giving of what occurred here. But you can't avoid the
13 fact that she is giving contradictory versions of the same
14 events and you're going to have to figure out why that is.
15 Shannon O'Connor.

16 I'm not going to spend a long time talking
17 about this because we don't even know really all of the
18 evidence and what it's going to be. We haven't heard an iota
19 of evidence at this point. I've gone through what we do
20 have, this stack of documentation and you know a lot of the
21 indictment in this case, a lot of the charges against the
22 defendants are based on claims that the defendants took
23 pornographic pictures of Shannon O'Connor. That's a good
24 part of the claim in this case. But other than Shannon
25 O'Connor, there's absolutely not a single bit of evidence

1 that I'm aware of any picture of Shannon O'Connor taken in
2 this setting, pornographic images. There's nothing there.
3 It ain't so. I submit to you there were -- Mr. Sacco was
4 arrested down in New Jersey where he worked. He didn't know,
5 you know, that he was going to get arrested that day. He
6 didn't see this coming. He didn't have any notice that the
7 police were on this. There was a phone call but I'll talk
8 about that in a minute. There's no evidence that he came
9 back up here and secreted away evidence. And Miss O'Connor,
10 same thing. You know, there were computers with images of
11 other pornography on it but there's just -- there's just
12 nothing about, there's no picture of Shannon on there. If it
13 was taken then where the heck is it, if it ever existed?
14 They went through hard drives apparently and didn't find it.
15 It's not there.

16 You know, Mr. Sacco I believe at some point
17 was up there taking pictures of the house and that may be
18 where Shannon saw a camera that he had. And I guess that
19 leads me to another point. Oh, the phone calls. Detective
20 Blenis was really the guy who stepped in first, the police
21 officer who stepped in first and lead the investigation and
22 in part of what he did was to get Shannon, I guess at that
23 time a 13-year-old girl on the phone to dial up Mr. Sacco and
24 see if she could persuade him to inculcate himself. And that
25 was unsuccessful. And characterized, as I've heard some

1 people characterize the evidence, that he admitted to certain
2 facts on those audio conversations. But he did not. You
3 listen to them, he did not. I'm told -- I've heard the
4 prosecutor say in essence he almost did or he nearly did but
5 I've heard those and I can say to you clearly he did not.

6 Now, part of the equation that's missing is
7 Detective Blenis, he tried to record the first audiotape.
8 There were three phone calls. The first phone call was and
9 it's gone. They couldn't record it. I don't know where it
10 is. That's a big mistake. That's the kind of mistake we
11 were talking about on voir dire. That's, in my opinion, is
12 pretty darn huge. No reference of what was said during that
13 conversation that I'm aware of. That's a big blunder right
14 there and it concerns me. So when Detective Blenis testifies
15 tomorrow you'll be able to watch him and understand what he
16 did and how he did it. It's a big mistake.

17 I really don't know what happened back in
18 Deposit between Shannon, George Lang, and Mrs. Lang. I
19 understand Mrs. Lang wasn't involved. That's her claim. I
20 don't know what happened with Linda O'Connor and I don't know
21 what happened with Shannon. It was all long before Dean
22 Sacco even knew about Norwich apparently or was in Norwich
23 before Shannon had any contact when that occurred. There's
24 an indication, though, there's a similarity in what occurred
25 in at least what the allegations are of what occurred there

1 as to the allegations that have been made against Mr. Sacco.
2 They're eventually through a couple different versions or a
3 reference to elicit information from Shannon where the
4 officer is sitting there nodding along, is this what
5 happened? Oh, yes, that's exactly what happened. Did it
6 have a tripod? Oh, yes, it did have a tripod. I just
7 thought that type of encouragement, suggestion, if you will,
8 that the facts, the allegations, not the facts, the claims
9 that Shannon makes against Mr. Sacco eventually take form
10 that are almost identical to the claims that she made about
11 George Lang and her mother concerning events that occurred
12 years before and I suggest to you consider the concept of
13 transference. George Lang apparently died and had never got
14 opened up, exposed, addressed, resolved, to the extent it
15 could get resolved. There's a lot of psychology here. I'm
16 not a psychologist but there's a lot of stuff going on here
17 psychologically from the perspective, not just of Shannon,
18 but frankly Dean, of Linda O'Connor, the police officer
19 involved, police officers involved here, the DSS workers.
20 There are emotional aspects to each of their involvement with
21 this girl as they bring her out through the system that I'll
22 try to reveal and bring out and understand myself as to why
23 they did what they did and how they did what they did and
24 it's your job to become a psychologist and kind of understand
25 that. And that's very difficult. But I think it's important

1 for you to understand it. Some of you have more experience
2 with it than others and can bring those tools to the table in
3 evaluating the credibility of the witnesses who testify here
4 and I really strongly ask that you do that and when it comes
5 to the testimony, not just from Shannon, but from other
6 people about what Shannon said and other people in reliance
7 upon what Shannon said, I ask that you look at it credibly,
8 analyze it and consider it critically. The biggest problem
9 frankly with my position at this point is, one, I don't know
10 what the evidence is but I know that there have been things
11 said by the witnesses you'll hear that have already been
12 recorded, documented, that are either self-contradictory,
13 contradicted by other evidence. And the problem is that when
14 you get a package of information buying a child some of it's
15 true and some of it's untrue. It's really hard to sort out.
16 If you know bits of it are true, it makes it very difficult
17 to say I don't believe the person because the little bits of
18 truth verify, substantiate that yes, I can believe this
19 person because they're telling me the truth. But I submit to
20 you in listening to the witnesses in this case, those little
21 bits of truth do not rise to the level of beyond a reasonable
22 doubt and that's really what it comes down to in the case.
23 The law that's standard in this criminal case that it must be
24 proved to you beyond a reasonable doubt each and every
25 allegation in each and every count against each of these two

1 defendants must be proved beyond a reasonable doubt. And I
2 submit to you what I know about the evidence at this point,
3 when we stand up here at the end of this trial in a week or
4 so, that the evidence will not rise to that level.

5 There's a legal point about interstate
6 commerce. I think it's mentioned eight or nine times in the
7 indictment. It's an integral part of the claims in this
8 case. You know the claim apparently is that Mr. Sacco came
9 up here for the purpose of engaging in a relationship with
10 this girl. I submit to you he was up here from at least May
11 of '05 and then they moved in August of '06 and he continued
12 to work on this place whenever he could on the weekends.
13 He'd get up from his -- from his job in Glenwood Furniture in
14 New Jersey, he was coming up here working on this place
15 regularly before he was ever aware of Shannon O'Connor, Linda
16 O'Connor and that he continued to do that throughout. So if
17 there was a purpose, his dominant purpose, his primary
18 purpose in coming up here, if there was a coincidental
19 meeting between the two of them, that's exactly what it was.
20 It was coincidence to him coming up to work on the house that
21 he used to make a living in part. That I believe at the end
22 of the day is not going to suffice. It's not going to rise
23 to the level of beyond a reasonable doubt to sustain the
24 allegations in this indictment.

25 The interstate commerce aspect of this case is

1 a technical aspect, frankly, that I look to and rely upon in
2 saying that in this federal case and the federal case has
3 unique requirements. It's different than a state case. The
4 interstate commerce aspect of this case is lacking proof --
5 regarding interstate commerce in this case is lacking and the
6 proof will not support a conviction on that and it's a
7 technical basis. It is a technical basis, it's a technical
8 requirement but it's a rule of law and it's important and
9 we'll see what the proof brings but I submit to you that you
10 need to consider, as you listen to the evidence, whether that
11 basis is going to be supported.

12 I've gone on long enough. I'm not going to
13 address all the proof at this point. Keep an open mind.
14 That's an awful hard thing to do at this point. I won't
15 speak to you directly for another seven or eight days.
16 You're going to hear proof that goes this way and proof that
17 goes that way and you're going to feel terrible and wonderful
18 in the meantime about things occurring. You're going to
19 laugh and cry seriously, that's not a joke, you will. But
20 don't decide this case yet. You know the prosecutor's urging
21 you to find these people guilty of what they did. You can't
22 take that as the rule and you can't take what he said here as
23 fact, as evidence, it's not. It's his position on particular
24 bits of evidence that you may hear. Listen to the remainder
25 of the evidence, if you will, please. Consider it in the

Mr. Fischer - Opening Statement

98

1 context and put the prosecution's case in context as you
2 listen to the remaining evidence. I'm going to let everybody
3 go home now. I appreciate your attention and I'll see you in
4 the morning and I'll speak with you in about a week or so.
5 Thank you.

6 THE COURT: Thank you, Mr. Fischer. All
7 right, ladies and gentlemen. As I indicated to you we're
8 going to have the last opening statement tomorrow. I think
9 we have been here long enough today and gotten a little ways
10 but we've got a lot farther to go.

11 Let me once again instruct you not to discuss
12 the case among yourselves, with anybody else or permit anyone
13 to discuss it with you. If there's anything in the media,
14 just ignore it. We want the case decided not upon about what
15 somebody else thinks they heard in the courtroom but what you
16 know you heard in the courtroom from the witness stand and
17 the law the Court gives to you. Beyond that I guess I can
18 tell you have a nice evening. We'll see you at 10:00
19 tomorrow morning because I have a 9:30 matter I've got to
20 take care of first and then we'll get you guys going.

21 (Court stands adjourned)
22
23
24
25

C E R T I F I C A T I O N

I, VICKY A. THELEMAN, RPR, CRR, United States Court Reporter in and for the United States District Court, Northern District of New York, do hereby certify that I attended at the time and place set forth in the heading hereof; that I did make a stenographic record of the proceedings had in this matter and cause the same to be transcribed; that the foregoing is a true and correct copy of the same and the whole thereof.

VICKY A. THELEMAN, RPR, CRR
United States Court Reporter
US District Court - NDNY

Dated: August 8, 2008.